

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

NOVEMBER 18, 2014

+ + + + +

The Public Meeting 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 L. Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD L. JORDAN, Chairperson
S. KATHRYN ALLEN, Vice-Chairperson
MARNIQUE Y. HEATH (AIA)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR
KAREN THOMAS
BRANDICE ELLIOTT
STEPHEN COCHRAN
MATTHEW JESICK
MARY RAPPOLT

The transcript constitutes the minutes from the Public Meeting held on November 18, 2014.

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

2 (9:54 a.m.)

3 CHAIRPERSON JORDAN: Good morning.

4 If we could please come to order. We had a little,
5 some technical difficulties. As you've noticed on
6 the website in the requirements now we've been
7 moving things away from paper and et cetera so that
8 means that all our things are electronic and we've
9 had some glitches in the system trying to get into
10 those.

11 Members of the Board as well as the
12 Zoning Commission have another application that
13 brings documents and all kinds of things. Well it
14 was working for some and not working for others.
15 So, but anyway again, we're about to begin so let's
16 come to order.

17 Today is November 18, 2014. We're here
18 for the meeting of the Board of Zoning Adjustment.
19 We're located at 441 4th Street NW in the Jerrily
20 R. Kress Memorial Hearing Room. My name is Lloyd
21 Jordan, Chairperson. To my right is S. Kathryn
22 Allen, Vice Chair.

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1 To my immediate left is Marnique Heath,
2 a Member of the Board. To her left is Anthony Hood,
3 the Chairman of the Zoning Commission sitting in
4 as a Member of the Board of Zoning Adjustment.

5 Please be advised that today's
6 proceedings are being recorded by a court reporter
7 you can see to my right and also being webcast live.
8 Therefore I'm going to ask you to refrain from any
9 disruptive noises here in the hearing room.

10 That's the signal for you now to take
11 a look at your phones and computers and make sure
12 all the buzzing and the whistles are turned off.
13 If you're going to present any testimony or
14 statement to the Board I'm going to need you to do
15 two things prior to testifying or making a
16 statement to the Board.

17 The first of which is to complete two
18 witness cards per person. That's two witness
19 cards per person and hand them to the court reporter
20 prior to testifying. So that's two witness cards
21 per person and hand them to the court reporter prior
22 to testifying.

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1 The second thing I'm going to need you
2 to do is to now stand and take the oath and be sworn
3 in by Mr. Moy, the Board Secretary.

4 MR. MOY: Good morning.

5 (Witnesses sworn)

6 MR. MOY: Ladies and gentlemen, you may
7 consider yourselves under oath.

8 CHAIRPERSON JORDAN: Thank you. Mr.
9 Moy, are there any announcements?

10 MR. MOY: Yes. Good morning, Mr.
11 Chairman, Members of the Board. For the record,
12 of the cases that have been scheduled for the docket
13 today, three cases, Mr. Chairman. The first is a
14 case that was originally scheduled for a decision,
15 Case No. 18886 of Hoorazor that has been
16 rescheduled for a decision to January 27, 2015.

17 Also two cases that were on the public
18 hearing schedule, Application Number 18855 of
19 David Dantzic that was also rescheduled to January
20 27, 2015. And finally Case Number 18860 of 1301
21 K Street LP has been withdrawn from the record.

22 CHAIRPERSON JORDAN: Okay. Thank

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1 you. Let me add, Mr. Moy, I'm offering to the Board
2 and its chair to remove 18827. I don't think it's
3 ready for a decision.

4 I think there are some other
5 implications and requested some additional
6 briefing by the Office of the Attorney General on
7 that case. So let's remove that from decision,
8 18827.

9 MR. MOY: Yes, sir. Does the Board
10 have an idea of where you would want a reschedule
11 date or do you want to make it to be determined?

12 CHAIRPERSON JORDAN: Let's set it
13 because I don't want to lose it and I want to be
14 able to manage it. But I just don't know how long
15 it's going to take the Office of the Attorney
16 General to provide the briefing on it, additional
17 information we requested. It was already --

18 MR. MOY: Into December or before the
19 holidays or after the holidays?

20 CHAIRPERSON JORDAN: No, no, that
21 shouldn't take that long. I'm thinking --

22 MR. MOY: Well I would propose then

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1 December 16th. Is that doable?

2 CHAIRPERSON JORDAN: All right. And
3 then let's be sure that we communicate with the
4 Office of the Attorney General and let them know
5 what our date is.

6 MR. MOY: All right. I'll take care of
7 that, sir. Yes, sir.

8 CHAIRPERSON JORDAN: That we get
9 briefed on that I appreciate it. This is a very
10 challenging docket. So as the Chair has the
11 authority to do we'll be managing this docket in
12 a way to be more effective and efficient.

13 So let's go ahead with our decision
14 cases please.

15 MR. MOY: Okay. So the first case for
16 a decision as scheduled is, we have one
17 application, Mr. Chairman, that's on the expedited
18 review calendar. That would be Application Number
19 18871 of Jacqueline Hart, special exception under
20 Section 223 not meeting the lot occupancy
21 requirements.

22 CHAIRPERSON JORDAN: Very good. Is

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1 the Board ready to deliberate on this case?

2 Good. This is one I think that's very
3 straightforward. The documentation in the file
4 does indeed support the relief for 223 relief and
5 the requested special exception.

6 So I would move that the Board grant the
7 relief requested in 18871.

8 VICE CHAIR ALLEN: Second.

9 CHAIRPERSON JORDAN: Motion made and
10 seconded. Any additional discussion? All those
11 in favor, aye.

12 (Chorus of ayes)

13 CHAIRPERSON JORDAN: Those opposed,
14 nay, Mr. Moy.

15 MR. MOY: Staff would record the vote
16 as 4-0 this on the motion of Chairman Jordan to
17 approve the application for the relief requested.
18 Second the motion, Vice Chair Allen and also in
19 support Mr. Hood and Ms. Heath.

20 We have a Board Member not present this
21 morning. Motion carries, sir.

22 CHAIRPERSON JORDAN: All right.

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1 Thank you. Certainly a summary order.

2 MR. MOY: Thank you, sir.

3 CHAIRPERSON JORDAN: Next please.

4 MR. MOY: The next item for a decision
5 that's before the Board is a request for an
6 immediate hearing in the Application Number 18506
7 of Ontario Residential. This is a property that
8 is located at 1700 Columbia Road NW.

9 CHAIRPERSON JORDAN: Okay. This is a
10 matter, request for immediate hearing on a case
11 that, the underlying case is no longer in
12 existence. It's been removed and vacated by the
13 requested relief by the Applicant in the underlying
14 case that this immediate hearing request it goes
15 to is no longer in existence.

16 So therefor there is no need to have an
17 immediate hearing on anything because it does not
18 exist. So the issue is particularly moot. The
19 Applicant is moving forward without relief from
20 this Board or any authority granted by this Board
21 because that's now been removed.

22 So I would find that this, I would offer

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1 to the Board to, I would move that we deny the
2 request for immediate hearing since this matter is
3 moot among other things.

4 MEMBER HEATH: Second.

5 CHAIRPERSON JORDAN: Motion made and
6 seconded. All those in favor of the motions, aye.

7 (Chorus of ayes)

8 CHAIRPERSON JORDAN: Those opposed,
9 nay. The motion carries, Mr. Moy.

10 MR. MOY: Staff would record the vote
11 as 4-0. This is on the motion of Chairman Jordan
12 to deny the request for an immediate hearing.
13 Seconding the motion, Ms. Heath. Also in support
14 Mr. Hood and Vice Chair Allen and a Board Member
15 not present. Motion carries, sir.

16 CHAIRPERSON JORDAN: All right.
17 Thank you. The next one please.

18 MR. MOY: The next and last item for the
19 decision portion of today's docket is an appeal
20 pursuant to DCMR Section 3181.3 of the Office of
21 Zoning Director's, August 27, 2014, decision
22 regarding the application of the fee schedule in

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1 Section 3180 and the Application Number 18862 of
2 Dorrington.

3 CHAIRPERSON JORDAN: Okay. This is
4 kind of an unusual case. However, basically it was
5 a request from the Board to determine whether or
6 not the filing fee for relief from the Board was
7 proper.

8 The Office of Zoning, I'm trying to
9 think of the amount, requested a certain dollar
10 amount required by the various variances that were
11 being requested. And the, I don't want to call
12 them an Applicant but the Movant is asking us to
13 examine the fee under 3180 where the Board has an
14 opportunity to do so if there's an issue of
15 controversy regarding a fee being charged by the
16 Office of Zoning for relief of the Board.

17 The particular regulation that's in, of
18 concern is 3180(d). Interesting 3180(d) is poorly
19 worded. It's a poorly worded regulation. The
20 regulation does not define, our regulations do not
21 define a one owner dwelling unit. It's not a term
22 in our regulations.

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1 And also it's an issue about where the
2 punctuation lies, whether or not the comma meant
3 that it follows through or it should be read in
4 light of what the intent was as a whole. The
5 practice of the Office of Zoning is to take that
6 as a single-family dwelling and so that has been
7 the practice of the Office of Zoning thus asking
8 for the additional amount of money, not the
9 additional, the higher amount of money for the
10 filing fee.

11 The punctuation also really makes this
12 sentence nonsensical or ambiguous at best if you
13 take it out of the context. However, we must
14 review the sentence in light of what we know and
15 what we know about single-family dwellings and what
16 is a flat.

17 And those things are defined in our
18 regulations. The regs have defined, I guess,
19 looking at it the other way around, this is a matter
20 where, this is a request for variance for a
21 multi-unit building. And our regs do define what
22 is a multi-unit building, a multi-family dwelling

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1 as a building containing more than, three or more
2 units.

3 And it's my understanding based on
4 what's been filed this is more than three units,
5 so therefore it would follow under what is called
6 a multi-family unit, multi-family dwelling. And
7 as such a multi-family dwelling is not defined as
8 an exclusion under 3180, Subsection 4. For with
9 that then I would deny the requested relief and
10 sustain the fee offered, required by the Office of
11 Zoning.

12 VICE CHAIR ALLEN: Second.

13 CHAIRPERSON JORDAN: Motion made and
14 seconded. Any additional discussion? All those
15 in favor, aye.

16 (Chorus of ayes)

17 CHAIRPERSON JORDAN: Those opposed,
18 nay. The motion carries, Mr. Moy.

19 MR. MOY: Staff would record the vote
20 as 4-0. That is on the motion of Chairman Jordan
21 to deny this request regarding the fee schedule.
22 Second the motion Vice Chairperson Allen. Also in

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1 support Mr. Hood and Ms. Heath and a Board Member
2 not present. Motion carries 4-0.

3 ZC CHAIR HOOD: Mr. Chairman, I would
4 just ask again, and I'm not trying to put a lot of
5 work on the Zoning Commission. These are those
6 issues that need to be clarified and straightened
7 out.

8 It seems like these issues keep coming
9 up and they never get straightened out. So I would
10 ask the Board of Zoning Adjustment to work along
11 with, the staff of BZA to work along with the staff
12 of the Zoning Commission and make sure that is on
13 the docket as the Zoning Commission continues to
14 try to revamp and straighten things out in the
15 Zoning rewrite and make things clear.

16 CHAIRPERSON JORDAN: I appreciate
17 that, Mr. Hood. I'm going to ask the Board
18 secretary to be sure to send a note to both the
19 Director of Zoning as well as the Zoning Commission
20 Chair and the Zoning Commission Secretary so that
21 we have this on a notice so that it can be covered
22 under the zoning rewrite.

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1 I don't know if we can last that long.
2 It might be something, Mr. Hood, that we need to
3 do something in the interim, the Zoning Commission
4 might need to do something.

5 ZC CHAIR HOOD: We've got so much
6 stuff in the pipeline. But, yes, it's a lot, that
7 laundry list is getting long as today's docket
8 shows.

9 (Whereupon, the meeting adjourned to
10 reconvene immediately as Public Hearing.)

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