

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

APRIL 21, 2015

+ + + + +

The Regular 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 9:40 a.m., Lloyd Jordan, Chairman, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

The transcript constitutes the minutes from the Public Meeting held on April 21, 2015.

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

(9:40 a.m.)

CHAIRMAN JORDAN: Good morning. Will we please come to order? We're located at the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. And, today's date is April 21, 2015. And, we're here for the public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Lloyd Jordan, Chairperson. To my right is Jeffrey Hinkle, Member of the Board. To my left is Robert Miller, Member of the Zoning Commission sitting in as a Member of the BZA for one case today.

Please be advised that these proceedings are being webcast live, and also being recorded by a court reporter, so therefore, I'm going to ask you to refrain from any disruptive noises here in the room. Good time now to make sure that we silence any devices that might ring.

The Board's hearing procedures are contained in a document or pamphlet to the door to my left in the back. Please feel free to get that to acquaint yourself with how we process at the Board.

If you're going to testify or address the Board in any manner today, I'm going to need you to do two things. If you're going to read a statement, testify, or say anything to the Board today, I'm going to need you to do two things prior to you testifying, prior to you taking a seat at this table.

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1 The first of which is to complete two witness cards per
2 person. That's two witness cards per person, and give those
3 witness cards to the court reporter to my right. So, prior
4 to taking a seat, complete two witness cards per person and
5 give those to the court reporter to the right.

6 The second thing I'm going to need you to do is now stand
7 and take the oath, which will be given by Mr. Moy, Secretary
8 to the Board.

9 MR. MOY: Good morning. Do you solemnly swear or
10 affirm that the testimony you're about to present in this
11 proceeding is the truth, the whole truth, and nothing but the
12 truth?

13 WITNESSES: I do.

14 MR. MOY: Ladies and gentlemen, you may consider
15 yourselves under oath.

16 CHAIRMAN JORDAN: Mr. Moy, any announcements?

17 MR. MOY: Yes. Good morning, Mr. Chairman and Members
18 of the Board.

19 Just brief, some brief remarks for the record. The
20 decision of 18886 of Hoorazor has been rescheduled to May 5.
21 Three cases previously on today's docket, 18980 appeal of
22 concerned citizens of Argonne Place has been rescheduled to
23 May 19. Application of 18983 of Carrie Trieu has been
24 rescheduled to June 9. And, the final case, Application
25 Number 18979 of Adal has been rescheduled to June 23.

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1 And, that completes the staff's introductions, Mr.
2 Chairman.

3 CHAIRMAN JORDAN: All right. Thank you, Mr. Moy.

4 So, let's call our first decision case for today,
5 please.

6 MR. MOY: Yes, that would be Application Number 18977
7 of Weaver Prospect, LLC.

8 CHAIRMAN JORDAN: Okay. Is the Board ready to
9 deliberate on, on this case?

10 (No audible response)

11 CHAIRMAN JORDAN: This is one which we had a lot of
12 testimony and a lot of things we're going on, including with
13 the Department of Transportation in an area that's very, very
14 narrow. The Applicant, I believe, has shown that the, the land
15 is landlocked and very narrow, and it's not a -- they don't
16 have the ability -- well, they could put a loading zone for
17 the property, but if you put the loading zone, then the badly
18 needed parking, which is being provided in this building, which
19 is more than enough for the requirement, but would drastically
20 affect the area, so it's a rock and a hard place.

21 I think, we said eight on one hand and four on the other,
22 and so, I believe, that there exists exceptional condition that
23 leads to a practical difficulty particularly in this matter
24 and that we should grant the relief requested. However, I
25 believe that there is also some conditions that we've kind of

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1 batted around during the hearing and the Applicant submitted
2 some proposed conditions, which I would like to probably cover,
3 which I would suggest the Board modify to some extent so that
4 it flows with the general intent where the Board is and the
5 issue of protecting the community from any substantial impact
6 from the lack of having loading in the property, and then the
7 ongoing operation, and then at what point will Department of
8 Transportation allow for the relocation of the loading zone,
9 as well as the other things that are happening around this
10 particular building.

11 So, let me just kind of go through some of the
12 conditions. As I said, they were submitted by the Applicant,
13 but however, I've suggested the Board do some modifications
14 there. And, let me read those.

15 "The Applicant must designate and maintain a loading
16 coordinator, loading coordinator to be responsible for
17 mitigating the project's load impact on the community," would
18 be the first one.

19 Number two. "In consultation with the Advisory
20 Neighborhood Commission and the Citizens Association of
21 Georgetown, the Applicant must design a loading zone and
22 corresponding street configuration along Prospect Street.
23 Prior to the issuance of a certificate of occupancy, the
24 Applicant shall install the loading zone and street
25 configuration as approved by Department of Transportation."

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1 Number three. "No restaurant or any other use that has
2 a more intensive loading use as determined by DDOT shall be
3 permitted on the property for a period of three years after
4 the effective execution of this order."

5 We might want to come back and visit that language.

6 "At the three-year period, to establish a use with a more
7 intensive loading use, the Applicant must submit a report to
8 DDOT that analyzes the impact of the loading operations on the
9 intensive use and propose mitigation of such impact. If DDOT
10 concludes there is an increased loading impact, the Applicant
11 in consultation with the Advisory Neighborhood Commission and
12 the Citizens Association of Georgetown shall provide DDOT with
13 the mitigation plan. The Applicant shall implement a
14 mitigation plan approved by DDOT prior to the issuance of a
15 certificate of occupancy."

16 Four. "The Applicant shall include..." Everything
17 else is probably the same way that the Applicant has submitted,
18 except for -- in number four, five, and six. In lieu of the
19 word, "will," it should read, "shall," and also in number six
20 and seven. So, those words were the words, "The Applicant will
21 do," it should be, "The Applicant shall do." Okay.

22 The Applicant also tendered a, eight and nine,
23 Commissions eight and nine. I'm going to suggest that the
24 Board not include eight and nine. This -- those conditions
25 are also already being provided in an agreement with the

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1 Applicant and others that would be enforceable.

2 However, they don't run directly with the relief being
3 requested for loading, and those two being the installed, the
4 bicycle racks and bicycle spacing. I would like to include
5 it, however, we've been advised over and over again that these,
6 these kind of conditions must run with the relief requested.

7 So, that's kind of my suggestion for, for relief here.

8 Any other discussions, Board? Yes.

9 MR. MILLER: Mr. Chairman, I would agree with the
10 modifications that you've made to the, the Applicant's
11 proffered conditions. On -- I mean, on the loading, this is
12 a request for loading relief, and -- but the Applicant and the,
13 and DDOT had a number of options for, for how loading could
14 be accommodated on-street, and they're going to obviously
15 consider that during the public space permitting process.

16 I would encourage the Applicant and DDOT to, to strongly
17 consider saturating the on-street loading zone that was in both
18 the Applicant's option, one of the Applicant's options and
19 DDOT's options, which was to eliminate that 55 foot loading
20 zone that currently exists at the end of Prospect Street
21 towards -- near Wisconsin Avenue, which, which the evidence
22 that we receive shows it's mainly being used for illegal
23 parking of cars.

24 And, you probably could put meters in there and get the
25 revenue from those cars, and instead install the, the on-street

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1 loading zone, a larger on-street loading zone of 125 feet
2 immediately in front of this project on the south side of
3 Prospect, which would be -- which would be -- which would not
4 only serve this project, but solve, or begin to address some
5 of the problems that currently exist for the illegal loading
6 that's occurring for all the activity that's immediately
7 across the street.

8 So, I would encourage the Applicant and DDOT to strongly
9 consider that when they comprehensively look at this at the
10 public space permitting. I'm not sure why that couldn't have
11 been just agreed upon now since that's what this is, Citizen's
12 Association of Georgetown ANC, and the Applicant, as one of
13 their options.

14 So, I don't know why it wasn't, it wasn't just done, but
15 it is a, it is a dynamic neighborhood, a lot of things going
16 on, so it should be evaluated during the public spacing
17 permitting process, and so this is a good project that'll
18 redevelop this surface parking lot, very popular surface
19 parking lot. And, they are putting underground parking that
20 will, that will more than replace what's there now, so I'm
21 prepared to support this.

22 CHAIRMAN JORDAN: Yes, there's a lot going on in this,
23 this little block. It's very active and a lot of deliveries,
24 a lot restaurants, and we're just trying to mitigate the impact
25 upon the community, and particularly, the neighbors and the

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1 residents that live there.

2 I know this condition, these conditions are kind of
3 intense, however, the alternative would be for us to hold this
4 thing in advance and hold up any further progress of the
5 property until there was a concrete plan. I just don't think
6 that's a viable option.

7 So, with that, I would move the approval of the requested
8 relief with the conditions as modified and read here today.

9 MEMBER: Second.

10 CHAIRMAN JORDAN: Motion made and second.

11 Additional discussions?

12 PARTICIPANT: No.

13 CHAIRMAN JORDAN: All those in favor aye.

14 (CHORUS OF AYES.)

15 CHAIRMAN JORDAN: Those opposed nay.

16 (No audible response.)

17 CHAIRMAN JORDAN: The motion carries.

18 Mr. Moy?

19 MR. MOY: Staff would record the vote as three to zero.

20 This is on the motion of Chairman Jordan to approve the
21 application for the relief requested and with, along with the
22 amended conditions as cited with the Board. Second the motion
23 Mr. Miller, also in support Mr. Hinkle. We have a Board member
24 not present, not voting, and a Board seat vacant. The motion
25 carries three to zero, sir.

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1 CHAIRMAN JORDAN: I believe the summary order should be
2 okay in this case.

3 Thank you, Mr. Miller.

4 MR. MILLER: Thank you.

5 CHAIRMAN JORDAN: Have a good day.

6 MR. MILLER: You too.

7 (Whereupon, the above-entitled matter went off the
8 record at 9:52 a.m.)

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