

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

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WEDNESDAY

JUNE 5, 2024

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The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 9:30 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- FREDERICK L. HILL, Chairperson
- LORNA L. JOHN, Vice-Chairperson
- CARL BLAKE, Member
- CHRISHAUN S. SMITH, NCPC Designee
- KEARA MEHLERT, Secretary

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice-Chairperson
- TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

- PAUL YOUNG, A/V Production Specialist

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.
CARISSA DEMARE, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from
the Regular Public Meeting held on June 5, 2024.

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

9:33 a.m.

1
2
3 BZA CHAIR HILL: Good morning ladies and gentlemen.
4 The Board of Zoning Adjustment today's public hearing is
5 6/5/2024 will please come to order. My name is Fred Hill,
6 chairman of the District of Columbia Board of Zoning
7 Adjustment. Joining me today are Vice-Chairs Lorna and John,
8 Carl Blake and Chrishaun Smith, Zoning Commissioners Anthony
9 Hood, Tammy Stidham, and Rob Miller.

10 Today's meeting and hearing agenda are available
11 at the Office of Zoning's website, please be advised this
12 proceeding is being recorded by a court reporter, and is also
13 webcast live via Webex and YouTube Live. The video and
14 webcast will be available on the Office of Zoning's website
15 after today's hearing. Accordingly, everyone who is
16 listening on Webex or a telephone will be muted during the
17 hearing.

18 Also please be advised in the meeting we do not
19 take any public testimony at our decision meeting session.
20 If you're experiencing difficulty accessing Webex or through
21 telephone call in, then please call our OZ hotline number at
22 2027275471 to receive Webex log in or call in instructions.
23 At the conclusion of the decision meeting session, I shall,
24 in consultation with the Office of Zoning, determine whether
25 a full or summary order may be issued.

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1 A full order is required when the decision it
2 contains is adverse to a party, including an affected ANC.
3 A full order may also be needed if the board's decision
4 differs from the Office of Planning's recommendation.
5 Although the board favors the use of summary orders whenever
6 possible, an applicant may not request the board to issue
7 such an order.

8 In today's hearing session, everyone who is
9 listening on Webex or by telephone will be muted during the
10 hearing, and only persons who have signed up to participate
11 or testify will be unmuted at the appropriate time. Please
12 state your name and home address before providing oral
13 testimony or your presentation. Oral presentation should be
14 limited to a summary of your most important points.

15 When you have finished speaking, please mute your
16 audio so that your microphone is no longer picking up sound
17 or background noise. Once again, if you're experiencing
18 difficult accessing Webex, or with your telephone call in,
19 or if you have forgotten to sign up 24 hours prior to this
20 hearing, then please call our OZ hotline number at 2027275471
21 to sign up to testify and to receive Webex log in or call in
22 instructions.

23 All persons planning to testify either in favor
24 or opposition should have signed up in advance, they'll be
25 called by name to testify. If this is an appeal, only the

1 parties are allowed to testify. By signing up to testify,
2 all participants complete the oath or affirmation as required
3 by Subtitle Y 408.7.

4 Requests to enter evidence at the time of an
5 online virtual hearing, written testimony, or additional
6 supporting documents other than live video, which may not be
7 presented as part of the testimony, may be allowed pursuant
8 to Subtitle Y 103.13 providing that the persons making the
9 request to enter an exhibit explain A, how the proposed
10 exhibit is relevant, B, the good cause that justifies
11 allowing the exhibit into the record, including the
12 explanation of why the requester did not file the exhibit
13 prior to the hearing pursuant to Y 206, and how the proposed
14 exhibit would not unreasonably prejudice any parties.

15 The order of procedures for special exception and
16 variances are pursuant to Y 409. At the conclusion of each
17 case, an individual who is unable to testify because of
18 technical issues may file a request for leave to file a
19 written version of the planned testimony to the record within
20 24 hours following the conclusion of public testimony and the
21 hearing.

22 If additional written testimony is accepted then
23 parties will be allowed a reasonable time to respond as
24 determined by the board. The board will then make its
25 decision at its next meeting session, but no earlier than 48

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1 hours after the hearing. Moreover the board may request
2 additional specific information to complete the record. The
3 board and the staff will specify at the end of the hearing
4 exactly what is expected, and the date a person must submit
5 the evidence to the Office of Zoning.

6 No other information shall be accepted by the
7 board. Finally, District of Columbia Administrative
8 Procedures Act requires that the public hearing on each case
9 be held in the open before the public. However, pursuant to
10 Section 405(b) and 406 of that act, the board may, consistent
11 with its rules and procedures, and the act, enter into closed
12 meeting on a case for purpose of receiving legal counsel on
13 a case pursuant to D.C. Official Code Section 2-575(b)(iv).

14 And or deliberate on a case pursuant to D.C.
15 Official Code Section 2-575(b)(xiii), but only after
16 providing the said public notice to the case emergency closed
17 meeting after taking a roll call vote. Madam Secretary, do
18 we have any preliminary matters?

19 MEMBER MEHLERT: Good morning members of the
20 board. Today there are a couple schedule changes, Appeal
21 Number 21007, the 4865 McArthur Landlord, LLC., has been
22 postponed to July 31st, 2024. And Appeal Number 21008 of
23 Gale H. Arnold for the Gale H. Arnold Local Trust and manager
24 of Lydia Denney Palmer D.C., LLC. has been postponed to
25 September 25th, 2024.

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1 In terms of late filings, the chairman has
2 reviewed and granted waivers to allow late filings into the
3 applicable case record pursuant to Subtitle Y Section 206.7,
4 and Section 103.13. Any other late filings during the course
5 of today's hearing should be presented before the board by
6 the applicant, parties, or other witnesses after the case is
7 called. Any other preliminary matters will be noted when the
8 case is called today.

9 BZA CHAIR HILL: Thank you. Good morning
10 everybody. I have a commitment at 10:30, and so Vice-Chair
11 John has agreed to take over for me while I have that
12 commitment, and in the meantime we will go ahead and move
13 through as the agenda was posted. And Madam Secretary, you
14 can call our first case.

15 MEMBER MEHLERT: The first case is in the board's
16 meeting session, it's Application Number 21037 of Nathaniel
17 and Patricia Robb. This is an application pursuant to
18 Subtitle X Section 901.2, with special exceptions under
19 Subtitle E Section 5201 to allow occupancy requirements of
20 Subtitle E Section 210.1, and the rear yard requirements of
21 Subtitle E Section 207.1.

22 This project is to construct a rear deck addition
23 to an existing three story attached building using the -- lot
24 it is located in the RF1 zone at 1361 Oak Street Northwest,
25 Square 2835, Lot 73. This was last heard on May 22nd, the

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1 board requested revised plans from the applicant, and any
2 response from the ANC. Participating are Chairman Hill, Mr.
3 Blake, Mr. Smith, and Chairman Hood.

4 I will also note there are two preliminary
5 matters. There is a request to reopen the record from Daniel
6 Hayes to allow additional testimony, and there is also a
7 request to postpone the board's decision from ANC 1A, which
8 was submitted by the Vice-Chair Jeremy Sherman.

9 BZA CHAIR HILL: Okay. I guess, Chairman Hood,
10 you're on this one, correct?

11 ZC CHAIR HOOD: Yes, I am, Mr. Chairman, and if
12 it's okay I'd like to keep my -- I'm outside, so I can't see
13 myself on the screen, so if you could just bear with me
14 today, thank you.

15 BZA CHAIR HILL: Of course, of course, thank you.
16 So, I'm a little bit uncertain as how to proceed, and I will,
17 I guess go around the table to hear what the board's thoughts
18 are. I mean, this case has gone on for quite some time. We
19 have taken a lot of testimony, we have heard from a lot of
20 different people, and I think had an opportunity to go over
21 the analysis of the case.

22 Some of the things that have come up in the case
23 are things that are probably outside of the board's purview.
24 This is going us to whether or not the home is being used in
25 the way that is allowed by zoning, meaning there's not an

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1 extra unit being used there, that's something that really is
2 more of a compliance issue that the ANC, or neighbors, or
3 whomever would let the Department of Buildings know about,
4 and they would enforce that.

5 That's not something, we're not enforcement. So,
6 we're then to take a look at the issues that are the zoning
7 issues that we're supposed to look at, which in this
8 particular case is kind of light, air, privacy, and how the
9 request is affecting those items. I think in terms of we
10 have heard from the Office of Planning, and the Office of
11 Planning had given us their analysis, and their analysis was
12 that they have met the criteria for us to grant this
13 particular relief.

14 I have always had a little bit of difficulty with
15 this, just because I think that decks are really large, and
16 I think there's a way that they could have possibly been
17 designed to be a little bit different, but the issues that
18 I was concerned about primarily were privacy issues. And so,
19 the three foot privacy screening that they have around the
20 perimeter of the deck on the third floor, I think would
21 adequately solve some of the issues that I had with it
22 concerning the privacy.

23 I would make one note that on their drawing, and
24 their drawings by the way, I appreciate the architect, but
25 they've always confused me because on one side you can see

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1 the elevator shaft, and on the other side you can't see the
2 elevator shaft, so I always got confused. But regardless,
3 what I want to point out for if this goes forward, is that
4 the privacy screening that they have, there's kind of like
5 a gap in that before where the stairwell is.

6 And I would assume that that gap is actually going
7 to be a gap, so I do not think that they need to put a get
8 there or something, the architect just didn't -- he colored
9 all the way across, there's going to be a gap right there,
10 an opening that I would imagine is going to be there, and I
11 would be fine with that. I just wanted to be clear that it's
12 not a straight across thing, right?

13 So, those are my overall thoughts. Then now we
14 have a request from the ANC to postpone so that they can take
15 a look at this again. I don't necessarily think they're
16 going to have anything new to share with us, but I think that
17 if the board were interested in doing that then we could
18 postpone, I think they said the 12th is when they were going
19 to try to do it again, June 12th, which isn't that far away.

20 And then this other person that wanted to put
21 something into the record, I mean, I would be denying that
22 because the person could have talked at any of the other
23 hearings, and also then if we did postpone this until after
24 the ANC hearing, that person could testify at that ANC
25 hearing. And so, basically what's on the table right now is

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1 whether you all think we should postpone this, and I'm going
2 to go around the table and hear what you all think. Can I
3 hear from you, Mr. Smith?

4 MEMBER SMITH: I agree with most of what
5 everything that you just stated regarding this particular
6 case. So, I mean what's before us is an open air deck, and
7 based on the special exception criteria, as you stated, what
8 we're tasked with reviewing with this particular case is
9 light, air, privacy. This is an open air deck, so there will
10 not be, as stated by the Office of Planning within their
11 report, there will not be any undue impacts as it relates to
12 light and air access in the adjacent properties.

13 But I do recognize that this is, by typical
14 standards that we look at, or typical sizes of decks that we
15 look at, this is on the larger side part of the decks, but
16 that in and of itself does not mean that it's undue. The
17 Office of Planning is on the record as stating that there are
18 a number of other decks within the square, matter of fact,
19 most of those are enclosed, I believe it was stated.

20 And this would so happen to be an open air deck.
21 The reason for the size of this deck is because more of a
22 function of the elevator. There is a five foot mechanical
23 penthouse that extends out from the rear, a fairly large
24 mechanical penthouse extends out from the rear of the home
25 here, and standard size for an elevator. In order to place

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1 a deck on the rear of this building, to cover the entire rear
2 of the building you have to maintain a five foot egress
3 walkway to meet building code standards.

4 So, that does kind of dictate the size of the
5 deck, and how far it's coming out. But I do not believe that
6 because it's an open air deck, the way it's designed, that
7 it would be -- would have an undue hardship on the adjacent
8 property owners. One of the primary concerns that was raised
9 by the neighborhood residents relate to privacy. And the
10 applicant has agreed to place a privacy screen around the
11 upper deck to mitigate some of the impacts as it relates to
12 privacy on the adjacent property owners.

13 So, I believe that the applicant, the Office of
14 Planning has always been in support of this application, it's
15 found that it has met the criteria for us to approve it, and
16 I do believe that we can address one of the primary concerns
17 that raised by the neighborhood as it relates to privacy with
18 that privacy screening, and to condition it as such for it
19 to be constructed.

20 The other concern that was raised, I believe by
21 the neighborhood, was the potentiality or concern that the
22 third floor would be rented out as another unit. That is
23 probably beyond the scope of this, of our board. The
24 applicant has submitted interior plans, I believe, that show
25 the layout of the third floor. And as it's designed, it's

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1 not designed exclusively to operate as a stand alone
2 dwelling.

3 But there are avenues that the adjacent property
4 owners, the ANC can pursue if they believe that this space
5 is being rented out for a third dwelling, they can file a
6 complaint. So, I would just note if the property owner is
7 here, you're on notice. This application, even if this is
8 approved, the microscope will remain on you. So, if you are
9 renting this out as a third, or attempt to rent this out as
10 a third unit, I'm sure you will get complaints.

11 Or you will get letters in the mail stating for
12 you to cease and desist renting this third floor space as a
13 rental unit. But again, that's not before the board today.
14 So, I do believe they've met the burden of proof for us to
15 grant the special exception with the condition of the privacy
16 screening, and would support the application.

17 BZA CHAIR HILL: And what do you think about the
18 postponement, Mr. Smith?

19 MEMBER SMITH: I agree with you, Chairman Hill,
20 I do not believe that we will get any additional new
21 information regarding from the ANC by postponing it. This
22 is within the record, the privacy screening is within the
23 record today, and they're also on record as agreeing to
24 construct the privacy screening in the pervious hearing. So,
25 the ANC's opposition is duly noted, and I think I'm prepared

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1 to move forward.

2 BZA CHAIR HILL: Okay. And Mr. Smith, I
3 appreciate, I'm not trying to put you on the spot on this
4 one, I'm kind of on the fence still, as to whether or not to
5 push this back. Like again, it would be pushed back only a
6 couple of weeks, but I don't really -- I'm waiting to see if
7 anybody on the board here thinks we should push it back. And
8 we didn't get actually a report from the ANC.

9 We didn't get anything to necessarily give great
10 weight to, but again, that's whatever. Mr. Blake?

11 MEMBER BLAKE: Good morning, Mr. Chair, thank you
12 very much. I do believe the record is full. The ANC 1A did
13 provide us with a report, they just chose not to take a
14 position, and they did not provide issues and concerns for
15 us to give great weight to. But we have had several
16 additional filings since that time from the SMD, and numerous
17 letters which he enclosed to us as well, reflecting all the
18 issues and concerns of the neighbors.

19 So, I do believe we've had a pretty good
20 understanding of the issues and concerns that have been
21 raised. We talked about, obviously the things that may not
22 be germane to the board, or within the board's purview, and
23 more of a DOB enforcement issue, which would be the use of
24 the property. I would also add in that context they have
25 indicated that it is a flat, it's registered as a flat, and

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1 they have attested they would use it as a flat.

2 And Board Member Smith quite eloquently talked
3 about how they could approach -- the neighborhood will be
4 watching clearly, and there is some notice there for them.
5 I think that the other issue that came up was some
6 measurement issues, which were addressed, and we had input
7 from the ZA with regard to how that should be done, and it
8 was adjusted, amended, and again, it fit within the context
9 of our approval.

10 And we were able to continue that discussion, so
11 that was another issue that was raised. The other issues
12 that were raised with regard to light, and air, and privacy
13 were pretty clearly articulated with those numerous letters.
14 And I think that also there was an issue about communication
15 with the community. So, I do believe that we've had ample
16 information from the community, so we have a had a chance to
17 weigh and view the facts of the case.

18 And we're in a position, certainly I am in a
19 position to vote on this today without the additional input,
20 and postponement. It would be nice to have something to give
21 great weight to from the ANC, however we have had a lot of
22 information at this point from the -- team as to issues and
23 concerns.

24 BZA CHAIR HILL: Okay, Chairman Hood?

25 ZC CHAIR HOOD: I apologize if there's some

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1 additional noise in the background, but I will say that I
2 agree with everything that I've heard my colleagues say. I
3 think we have hashed this out quite a bit, especially dealing
4 with the privacy issue, I think that has been pretty much
5 mitigated. It may not have been resolved completely, but I
6 always err on the side of caution. I believe that I always
7 want to hear from the community, and they asked us for one
8 more week.

9 And I know it seems like I'm in the minority, I'm
10 actually ready to move forward, but I would like to err on
11 the side of caution, but if the majority today of the board
12 members decide to move forward, I will move forward, but I'm
13 always cautious, and I will leave it at that. So, thank you,
14 Mr. Chairman.

15 BZA CHAIR HILL: That's fine. I also, Chairman
16 Hood, I'm glad that you're on the board today, I'm fine, it
17 only takes one really, and I have no problem, I don't think
18 any of our fellow board members also have any issues. So
19 then if that were the case, we would grant the postponement
20 that's being requested by the ANC. That means they would
21 then have an opportunity to meet on the 12th, which is a week
22 from today, and then they'd have a chance to discuss whatever
23 they want to discuss.

24 And then I guess we could have a filing from them,
25 Madam Secretary, I guess I can ask the ANC whenever, but I

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1 mean if the ANC can at least give us something by the 17th,
2 COB, okay?

3 MEMBER MEHLERT: So, you don't have a hearing on
4 June 19th, just so you know.

5 BZA CHAIR HILL: Yeah, yeah. Okay, so they can
6 give it to us then a week later, which is -- well, hold on,
7 give me a second. Yeah, that's fine. Then why don't we ask
8 them for their filing a week later, which would be on the
9 19th, okay? And then we would ask for any responses from the
10 parties by the 21st, which is two days later, and then we can
11 come back for a decision on the 26th, okay?

12 And as far as that preliminary matter to reopen
13 the record, I'm going to deny that request, because again,
14 I think that this individual could have spoken at an earlier
15 hearing with us, and also now if that person wants to, they
16 can speak at the ANC meeting on the 12th. So, we're going
17 to be back here for a decision on 6/26/24, okay? And just
18 so I know, Mr. Blake, and Mr. Smith, you guys are here on
19 that day, right? On the 26th, as far as you know?

20 MEMBER SMITH: Yes.

21 BZA CHAIR HILL: Okay, because I will be voting
22 absentee. Okay, great. All right, Chairman Hood, is that
23 it for you today?

24 ZC CHAIR HOOD: That's it for me, thank you. You
25 have a great day.

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1 BZA CHAIR HILL: All right, enjoy your day.

2 ZC CHAIR HOOD: All right, you all do the same.

3 BZA CHAIR HILL: Bye bye.

4 (Whereupon, the above-entitled matter went off the
5 record at 9:56 a.m. and resumed at 10:17 a.m.)

6 BZA CHAIR HILL: Just so everyone knows, Vice-
7 Chair John has been kind enough to agree to help me take care
8 of a business call, and so the order that I have us remaining
9 is 21131 is the next one that I had, 17952A is the next one
10 that I had, 21123 is the next one that I had, 20768, and
11 20769. And then I would hope to return.

12 MEMBER MEHLERT: If could repeat those please, Mr.
13 Chairman.

14 BZA CHAIR HILL: Sure, sure, of course. The ones
15 that Vice-Chair John was kind enough to cover for me are
16 21131, 17952A.

17 MEMBER MEHLERT: I think you said 21123?

18 BZA CHAIR HILL: Yeah, the next one, so Ms. John,
19 the next one after that is 21123, and the next one after that
20 is 20768, and 20769.

21 MEMBER MEHLERT: Okay, so 21119, and 20823, you
22 will be back for that, as well as the appeal?

23 BZA CHAIR HILL: Yeah, yeah. So, I'll be back for
24 21119, and then I'll be back for 20823A, and then I'll be
25 back for 21082.

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1 MEMBER MEHLERT: Okay.

2 BZA CHAIR HILL: Okay.

3 MEMBER MEHLERT: Thank you.

4 BZA CHAIR HILL: Thank you. All right, you all
5 have a good little bit of time, and I will see you back when
6 I see you back. Bye bye.

7 MEMBER MEHLERT: Thank you. Vice-Chair John, just
8 let me know when you're ready to call the next case, and I
9 believe Commissioner Miller is joining us.

10 BZA VICE CHAIR JOHN: Okay, great. Welcome,
11 Commissioner Miller. So, yes, please go ahead and call the
12 next case, which I think is 21131.

13 MEMBER MEHLERT: Yes, this is in the board's
14 meeting session, this is an expedited review Application
15 Number 21131 of Aaron Flyer, this is a self certified
16 application pursuant to Subtitle X Section 901.2 for a
17 special exception under Subtitle E Section 5201, the lot
18 occupancy requirements of Subtitle E Section 210.1, this is
19 to construct a rear addition to an existing two story
20 attached principal dwelling.

21 Project is located in the RF1 zone at 430 10th
22 Street Northeast, Square 937, Lot 67.

23 BZA VICE CHAIR JOHN: Okay, thank you, I'll go
24 ahead and start the discussion. So, as the secretary just
25 noted this is a self certified application for lot occupancy

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1 relief in the RF1 zone. And this is not a significant
2 improvement, it's a rear addition to an existing two story
3 attached principal dwelling, and I'm going to give great
4 weight to OP's recommendation and analysis. And I notice
5 that, I don't believe we have -- yes, the ANC also supports
6 the relief.

7 We have several persons in the neighborhood who
8 are in support. The existing lot occupancy is 61.75 percent,
9 and the applicant is seeking an increase to 68.34 percent
10 where 60 percent is permitted. So, in terms of privacy, and
11 light, and air concerns, I don't believe that this minor
12 addition should create any substantial adverse impact on the
13 neighborhood. And I'll ask my colleagues if they wish to add
14 anything to this comment. Mr. Smith?

15 MEMBER SMITH: I have nothing to add, I agree with
16 your assessment of this particular case, it seems fairly
17 straight forward, and its impacts would not be undue, so I
18 would support the application as well, giving OP's staff
19 report great weight.

20 BZA VICE CHAIR JOHN: Thank you. Mr. Blake?

21 MEMBER BLAKE: Thank you, Vice-Chair, I'm in
22 support of the application. I believe the applicant has met
23 the burden of proof, I would also note the letters of support
24 from the adjacent members, as well as the capital
25 restoration, I would be voting in favor of the application.

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1 BZA VICE CHAIR JOHN: Thank you. Commissioner
2 Miller?

3 ZC VICE CHAIR MILLER: Thank you, Vice-Chair, I
4 agree with your analysis, and concur with you, and my
5 colleagues on this issue, that the applicant has met the
6 standard of review for the relief being requested, and I'm
7 prepared to support the application. Thank you.

8 BZA VICE CHAIR JOHN: Thank you. So, I'll make
9 a motion then to approve Application Number 21131 as
10 captioned and read by the secretary, and ask for a second.
11 Mr. Blake?

12 MEMBER BLAKE: Second.

13 BZA VICE CHAIR JOHN: Thank you. Madam Secretary,
14 will you take the roll call?

15 MEMBER MEHLERT: Please respond to the vice-
16 chair's motion to approve the application. Vice-Chair John?

17 BZA VICE CHAIR JOHN: Yes.

18 MEMBER MEHLERT: Mr. Smith?

19 MEMBER SMITH: Yes.

20 MEMBER MEHLERT: Mr. Blake?

21 MEMBER BLAKE: Yes.

22 MEMBER MEHLERT: And Commissioner Miller? Staff
23 will record the vote as four, to zero, to one to approve
24 Application Number 21131 on the motion made by Vice-Chair
25 John, and seconded by Mr. Blake with one board member not

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1 participating.

2 BZA VICE CHAIR JOHN: Thank you. So, let's move
3 to the next case, which I believe is 17952A?

4 MEMBER MEHLERT: Yes, the next application in the
5 board's meeting session is Application Number 17952A of
6 Lincoln Leibner. This is a request pursuant to Subtitle Y
7 Section 703 for a modification of consequence of plans
8 approved by the order issued on August 3rd, 2009 in
9 Application Number 17952 to allow a second story addition to
10 an existing one story accessory structure.

11 Again, this is to construct a second story
12 addition with a catwalk to an existing one story accessory
13 structure in the rear yard of an existing two story attached
14 principal dwelling located in the RF1 zone at 1332 T Street
15 Northwest, Square 238, Lot 79.

16 BZA VICE CHAIR JOHN: Thank you. So, there was
17 a previous order in this case where the lot occupancy was not
18 accurately determined, and there has been a reevaluation, and
19 the ZA now is in agreement that the proposed -- that the
20 existing lot occupancy is properly calculated at 58 percent.
21 And so the applicant is seeking to increase this to 61
22 percent, which is under the ZR16 regulations allowable by
23 special exception.

24 The set back requirement was also different in the
25 previous regulations, they have been relaxed currently, and

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1 the new provisions require a 7.5 minimum setback. In this
2 case the applicant requires -- I'm sorry, the applicant is
3 proposing eight feet where eight feet is existing. So, I'm
4 not quite sure that the applicant -- the 61 percent is within
5 the area where the zoning administrator could, within his
6 discretion, grant this request.

7 But it is a self certified application, and so
8 unless there is no reason to approve the self certified
9 application, the board would ordinarily go ahead and grant
10 relief out of an abundance of caution. So, I think that, as
11 I have said before, the application meets the criteria under
12 the existing regulations. If we were to analyze this in
13 terms of whether or not there's any adverse impact, I would
14 think that there is no adverse impact from this small
15 addition.

16 And in terms of privacy, and light, and air, this
17 would have already been determined in the previous
18 application, and it really is no major change in this
19 application. So, I'm in support of the application, and I
20 would like to hear from my other board members. Mr. Smith,
21 would you like to start?

22 MEMBER SMITH: Vice-Chair John, I have nothing to
23 add, I agree with your assessment on this particular case,
24 and I believe that they have met the burden of proof for us
25 to grant them this release. So, with that I will support the

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1 application.

2 BZA VICE CHAIR JOHN: Thank you. Board Member
3 Blake?

4 MEMBER BLAKE: I would mention the stated
5 consequence, I would also point out the comments made by the
6 Office of Planning as to the impact on neighboring properties
7 as to the amount of light available should not substantially
8 change as a result of modification. The increase in height
9 from the previously approved design would still be within the
10 right range, and the new design would increase the degree of
11 privacy to the neighbors by removing the second floor
12 terrace.

13 So, given those factors, and also the support of
14 the ANC 1B, and the recommendation of the Office of Planning,
15 I would be in support of the application.

16 BZA VICE CHAIR JOHN: Thank you, Mr. Blake. I
17 would also add that HPRB is in support of the application.
18 Okay, so with that I will make -- I'm sorry.

19 ZC VICE CHAIR MILLER: I would just confer with
20 my colleagues.

21 BZA VICE CHAIR JOHN: Thank you, Commissioner
22 Miller, I did not intend to exclude you, I caught it just as
23 soon as I started, but thank you. So, with that I will make
24 a motion to approve Application Number 17952A as captioned
25 and read by the secretary, and ask for a second, Mr. Blake.

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1 I'm sorry, I didn't hear you.

2 MEMBER BLAKE: Second.

3 BZA VICE CHAIR JOHN: Thank you. Madam Secretary,
4 would you please take a roll call?

5 MEMBER MEHLERT: Please respond to the vice-
6 chair's motion to approve the application. Vice-Chair John?

7 BZA VICE CHAIR JOHN: Yes.

8 MEMBER MEHLERT: Mr. Smith?

9 MEMBER SMITH: Yes.

10 MEMBER MEHLERT: Mr. Blake?

11 MEMBER BLAKE: Yes.

12 MEMBER MEHLERT: And Commissioner Miller? Staff
13 will record the vote as four, to zero, to one to approve
14 Application 17952A from the motion made by Vice-Chair John,
15 and seconded by Mr. Blake with one board member not
16 participating.

17 BZA VICE CHAIR JOHN: Thank you, Ms. Mehlert. So,
18 as I understand it, we're now moving back to the hearing
19 calendar?

20 MEMBER MEHLERT: Yes.

21 BZA VICE CHAIR JOHN: Okay, so let's take a 15
22 minute break, is that too much, or too little? Let's return
23 at 10:45 then.

24 (Whereupon, the above-entitled matter went off the
25 record at 10:31 a.m.)

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In the matter of: Public Meeting

Before: DC BZA

Date: 06-05-24

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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