

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

JULY 3, 2024

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Videoconference, 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

ZONING COMMISSION MEMBER PRESENT:

JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
PAUL YOUNG, A/V Production Specialist
MICHAEL SAKINEJAD, Zoning Data Coordinator

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
MARY NAGELHOUT, ESQ.
CARISSA DEMARE, ESQ

The transcript constitutes the minutes from the Regular Public Meeting held on July 3, 2024.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

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

2 (11:28 a.m.)

3 MS. MEHLERT: This is the Board's meeting agenda
4 of application number 21162 of David Steadman and Daphne
5 Kiplinger. This is a self-certified application pursuant to
6 Subtitle X, section 901.2, for special exception under
7 Subtitle D, section 5201, and the accessory building location
8 requirements of Subtitle D, section 5004.1(a), to allow an
9 accessory building in a required rear yard.

10 This is to construct a two-story rear addition to
11 an existing two-story semi-detached principal building with
12 a one-story accessory structure located in the rear yard.
13 The project is located in the R-2 zone at 4117 38th Street
14 Northwest, Square 1898, Lot 27.

15 CHAIRPERSON HILL: Okay, thank you. Okay, so
16 again, we are here with a special exception for a rear yard
17 accessory building. Distance between the principal building
18 and the accessory structure is 12.17 feet existing. Distance
19 between the principal building and the accessory structure
20 is 10 feet proposed.

21 I went through and reviewed the Office of
22 Planning's record and the different criteria that we are
23 tasked with looking through. I don't think this is going to
24 unduly affect the light and air to any neighboring properties
25 or privacy issues.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

www.nealrgross.com

1 I think that the proposed addition would be
2 visible, as noted by the Office of Planning, from Van Ness
3 Northwest to Side Street and the alley. However, it should
4 not intrude on the character of the area when viewed from the
5 street and alley. In addition, it's the same height as the
6 existing house and designed to be consistent with its
7 character.

8 Therefore, I also believe that they meet the
9 special exemption review standards criteria in X-901. I
10 think that I would agree with the analysis the Office of
11 Planning has provided. I also am pleased that the ANC says
12 that the adjoining properties submitted letters in support
13 and that they didn't have any issues or concerns. So, I'm
14 going to be voting in favor of this application. Mr. Blake,
15 do you have anything you'd like to add?

16 MEMBER BLAKE: Mr. Chair, I agree that this is a
17 fairly straightforward application. The record is full. I
18 agree with the comments you've made. I credit the Office of
19 Planning's analysis with how the applicant has met the
20 criteria for approval and would give great weight to its
21 recommendation.

22 I'd also give great weight to the ANC, I think,
23 3A's support and note that the ANC 3E was notified. I'd also
24 note that the record contains several letters of support, as
25 you pointed out, and one from the adjacent neighbor, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 I'll be voting in support of the application.

2 CHAIRPERSON HILL: Okay, thank you.

3 Dr. Imamura?

4 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

5 I'm in agreement. The record's complete. And I agree with
6 your assessment as well as what members would like. I'm
7 prepared to vote in support as well.

8 CHAIRPERSON HILL: Thank you.

9 Vice Chair John?

10 VICE CHAIR JOHN: I'm in support of the
11 application and I agree with your assessment. And I'll give
12 great weight to the Office of Planning's analysis and
13 recommendations.

14 CHAIRPERSON HILL: Thank you.

15 All right, I'm going to go ahead and make a motion
16 to approve application number 21162 as captioned and read by
17 the Secretary, and asked for a second.

18 Ms. John?

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: Motion made and seconded.

21 Madam Secretary, give me a roll call, please?

22 MS. MEHLERT: This is on the Chair's motion to
23 approve the application.

24 Chairman Hill?

25 CHAIRPERSON HILL: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 MS. MEHLERT: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MS. MEHLERT: Board Member Blake?

4 MEMBER BLAKE: Yes.

5 VICE CHAIR JOHN: Dr. Imamura.

6 COMMISSIONER IMAMURA: Yes.

7 MS. MEHLERT: Staff would record the vote as 4-0-1
8 to approve application 21162 on the motion made by Chairman
9 Hill and seconded by Vice Chair John.

10 CHAIRPERSON HILL: You may call the next one when
11 you have an opportunity.

12 MS. MEHLERT: The next is another expedited review
13 application for application number 21165 of Jonathan
14 Leibundguth and Kristin Gifford. This is a self-certified
15 application pursuant to Subtitle X, Section 901.2, for a
16 special exception under Subtitle D 5201 from the Accessory
17 Building Location Requirements of Subtitle D 5004.1(a) to
18 allow an accessory building and require a rear yard.

19 This is to construct a new one-story accessory
20 structure and a two-story rear addition to an existing
21 two-story detached principal dwelling. Project is located
22 in the R-1B zone at 3803 Gramercy Street NW, Square 1851, Lot
23 52.

24 CHAIRPERSON HILL: Thank you. Okay, again, a very
25 similar relief that's being requested as in the previous

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 case. I would also agree that I don't think there's any
2 concern about the light and air available to the neighbor of
3 properties being unduly affected.

4 I would refer my comments to the Office of
5 Planning's report, also that to privacy, enjoyment, and
6 neighboring properties not being unduly compromised. And I
7 do believe they're meeting the special -- sorry, the Subtitle
8 X, Section 901, special exception review standards. I also
9 will note that the ANC has provided their recommendation, and
10 in this particular case, it is also in support.

11 They, the ANC, had a comment about a rain barrel
12 to help mitigate the loss of permeable space. The applicant
13 is not here, and so I do not know if the applicant would
14 agree to that rain barrel.

15 However, permeable space is not something that is
16 before us, and so if the applicant had agreed to that with
17 the ANC, I would imagine they will go ahead and live up to
18 that agreement, as it's not really something that is that
19 difficult to do.

20 And so, however, I do not think it's something
21 that we can, as the Board, have in our purview to put in this
22 particular order. We could in other orders, I suppose,
23 actually, but in this particular order, I don't think that
24 it's something that I would be comfortable putting in.
25 However, I would be voting in favor of this application.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 Mr. Blake, do you have anything you'd like to add?

2 MEMBER BLAKE: Chair, I agree with your analysis.
3 I believe the record's full on this application as well, and
4 would be comfortable and credit the Office of Planning's
5 analysis with how the applicant's met the criteria, and also,
6 again, give a great weight to its recommendation.

7 I would agree with you that the rain barrel --
8 including the rain barrel, would not fall initially with
9 regard to this application, because we are dealing with the
10 rear yard and accessory unit, which is not necessarily
11 associated with this.

12 So, for that reason, I, too, would leave it out
13 and would hope that the applicant would continue to go along
14 with what they've agreed to do with the ANC. I would also
15 note that there are letters of support from both adjacent
16 neighbors, and I'll be voting in favor of the application.

17 CHAIRPERSON HILL: Thank you.

18 Dr. Imamura?

19 COMMISSIONER IMAMURA: Chairman, I'm in agreement
20 with both your summary and Board Member Blake noting the full
21 support of the ANC, as well as letters of support here in the
22 record. While I am a proponent of rain barrels, I agree that
23 that's probably not something before us today, but prepared
24 to vote in support of the special extension measure. Thank
25 you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 CHAIRPERSON HILL: Thank you.

2 Vice Chair John?

3 VICE CHAIR JOHN: I'm in support of the
4 application, and I agree with all of the comments so far,
5 including the question about the rain barrel, which is not
6 something that the Board can require or enforce. And so,
7 with that, I would be voting for the application.

8 CHAIRPERSON HILL: Thank you.

9 All right, I'm going to make a motion to approve
10 application number 21165 as captioned and read by the
11 Secretary, and ask for a second.

12 Ms. John?

13 VICE CHAIR JOHN: Second.

14 CHAIRPERSON HILL: The motion has been made and
15 seconded. Madam Secretary, take a roll call, please.

16 MS. MEHLERT: Motion to approve the application.
17 Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MS. MEHLERT: Vice Chair John?

20 VICE CHAIR JOHN: Yes.

21 MS. MEHLERT: Board Member Blake?

22 MEMBER BLAKE: Yes.

23 MS. MEHLERT: And Dr. Imamura.

24 COMMISSIONER IMAMURA: Yes.

25 MS. MEHLERT: Staff will record the vote as 4-0-1

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 to approve application 21165 on the motion made by Chairman
2 Hill, seconded by Vice Chair John, one board member not
3 participating.

4 CHAIRPERSON HILL: Thank you.

5 All right. Okay. Now we have, I believe, an
6 advanced party status request, and you may call that one,
7 Secretary Mehlert.

8 MS. MEHLERT: Yes, this is an advanced party
9 status request for application number 21151 of Dinesh Tandon
10 and Nidhi Tandon. This is a self-certified application
11 pursuant to subtitle X, section 901.2, for a special
12 exception under subtitle C, section 204.9, to allow a change
13 from one non-conforming use to another non-conforming use.

14 Also pursuant to subtitle X, section 1002, for an
15 area variance from subtitle C, section 204.9(b), to allow a
16 non-residential use. This is changing -- a change in a
17 non-conforming use of the first foreign seller of an existing
18 two-story building from a retail convenience store to a
19 restaurant.

20 It's located in the RF-1 zone at 2324 North
21 Capitol Street, Northwest, Square 3124, Lot 143. Again, this
22 is an advanced party status request in opposition from Pam
23 Mendelson, located at 61 Bryant Street, Northwest. And I'll
24 also note the public hearing has already been postponed from
25 the July 24th hearing to October 9th.

1 CHAIRPERSON HILL: Okay, thank you.

2 Are those requesting party status here? Okay, I
3 see Ms. Mendelson.

4 MS. MEHLERT: I don't believe the applicant was
5 planning on attending.

6 CHAIRPERSON HILL: Is Ms. Mendelson there?

7 MS. MENDELSON: Can you see me okay?

8 CHAIRPERSON HILL: Yes, yes.

9 MS. MENDELSON: Excellent.

10 CHAIRPERSON HILL: Okay, Ms. Mendelson, can you
11 go ahead and first introduce yourself for the record, where
12 you live, and why you believe you're meeting the criteria for
13 us to grant your party status?

14 MS. MENDELSON: Yes, I'd be happy to, and thank
15 you for the opportunity. My name is Pam Mendelson. I live
16 at 61 Bryant Street, Northwest. And what was the other
17 piece? Is that identifying information?

18 CHAIRPERSON HILL: Yeah, why you think that you
19 meet the criteria for us to grant you a party status.

20 MS. MENDELSON: Thank you. So, the reason that
21 I am asking for party status in this hearing is because I am
22 more impacted than residents who live on other streets of
23 this neighborhood.

24 This zoning change will create adverse effects for
25 all the residents on the block, and these are effects that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 the owner is not going to be able to change. So, I live and
2 I work by day and I sleep by night on the street that will
3 experience some of these adverse effects that cause my
4 opposition.

5 CHAIRPERSON HILL: Okay. Could you tell me your
6 address again?

7 MS. MENDELSON: 61 Bryant.

8 CHAIRPERSON HILL: Okay.

9 MS. MENDELSON: I'm outside of the 200-foot area,
10 but because this is a single lane of traffic with parked cars
11 on either side, the traffic backups from double-parking cars
12 already comes up the block and it will continue, as well as
13 any other traffic associated with the change in use.

14 CHAIRPERSON HILL: Okay. Thanks, Ms. Mendelson.
15 Does the Board have any questions for the party
16 status applicant?

17 Go ahead, Dr. Imamura.

18 COMMISSIONER IMAMURA: Ms. Mendelson, I'm just
19 curious if you could articulate a little bit more how you're
20 more uniquely affected than, say, somebody who lives in your
21 neighborhood at 59 Bryant Street, Northwest, or 57, 55, all
22 the way leading up to the actual property in question at 2224
23 North Capitol Street?

24 MS. MENDELSON: I would not be impacted more than
25 others on my block, but I am impacted more than others who

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 are even just a block away. And the letters of support I've
2 noticed are coming from people that are all even just three
3 blocks away. So that's the difference. It's within the
4 neighborhood, not the block.

5 COMMISSIONER IMAMURA: Thank you.

6 CHAIRPERSON HILL: Okay.

7 Anyone else? Okay. All right.

8 Thank you very much, Ms. Mendelson. And I'm going
9 to close this portion of the hearing.

10 Mr. Mike, if you could please excuse Ms.
11 Mendelson, and then we'll deliberate.

12 MS. MENDELSON: Thank you.

13 CHAIRPERSON HILL: Thank you. Okay. In regards
14 to Ms. Mendelson, I appreciate her concern for the request
15 that's being made. I don't think she meets the criteria in
16 terms of why she's more affected in character or kind by the
17 zoning action than those of other persons in the general
18 public.

19 The general public meaning, again, just other
20 people on that street. I know that, like, you know, we --
21 I don't even think the 200 feet -- the 200 feet isn't
22 necessarily even a criteria that we take into account.

23 It's just something that people get notified if
24 they're within the 200 feet. She is actually outside the 200
25 feet, but, you know, really it's kind of like adjoining

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 properties and people across alleys, those that really can
2 give a clear indication as to why they're meeting the
3 criteria under Y404.13.

4 So I'm going to be voting in opposition to her
5 party status request, but do appreciate that she came here
6 and that she'll have an opportunity to speak at the hearing
7 when it happens as a member of the public, as well as she can
8 go -- I don't know if the ANC -- her ANC, has met about this
9 yet or not but I would direct her to her ANC to see when this
10 application is coming up for hearing and can also voice her
11 opinion at that time.

12 Mr. Blake, do you have anything you'd like to add?

13 MEMBER BLAKE: Well, Mr. Chair, I would say that
14 this is actually -- I, too, saw the situation as you do.
15 However, I thought about a couple issues here. This person
16 is seeking party status, obviously resides across the street,
17 23 doors down, and in an adjacent square, which is beyond the
18 200 foot radius.

19 As you pointed out, that's not that much of an
20 issue. But the subject property is a corner lot and its use
21 variance is for a full service restaurant. It's not a deck
22 or not an addition. The kind of objectionable conditions
23 that you have with something like this are parking, trash,
24 and traffic that really could spread well beyond the
25 immediate neighbors or even those within 200 feet.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 It really depends upon the size of the operation.
2 So there is an argument that can be made that this person and
3 anyone in this immediate area could be adversely affected
4 more so than the general public. So I can support the issue
5 with regard to that, not granting party status. But it is
6 a little bit challenging for me because of the nature of the
7 actual relief that's being requested.

8 CHAIRPERSON HILL: Okay. And I guess, Mr. Blake,
9 I appreciate your input and comments. And I think that maybe
10 during a different training, we can maybe talk about this.
11 Because even as you are talking about it, it makes me think.

12 So then if anything, there's a corner store or
13 something like that, that means we could have like, you know,
14 15 people that have party status that are all in that little
15 area. But I think that that -- I don't know if that's
16 exactly how we might be able to move forward. But I do
17 appreciate your comments and your willingness to listen to
18 other thoughts on this matter.

19 Dr. Imamura?

20 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
21 Similar to your comments, I appreciate Board member Blake's
22 perspective on this. It's an interesting point of view,
23 although one that I'm not sure that I share. I align myself
24 with your comments, Mr. Chairman. And I'm not sure that
25 she's more uniquely affected than someone else on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 streets. So I'm prepared to vote in opposition for this.

2 CHAIRPERSON HILL: Thank you.

3 Vice Chair John?

4 VICE CHAIR JOHN: Thank you, Mr. Chairman. Yes,
5 I struggled with this request for party status and appreciate
6 Mr. Blake's comments in sort of, you know, helping me to look
7 at another perspective.

8 But when I looked at it, I thought that the
9 requester was not close enough to the location of the
10 activity to be more significantly affected by -- the next
11 door neighbor, for example, who has not requested party
12 status or the neighbor two doors down that did request party
13 status but did not follow up.

14 So I am inclined to agree with you, Mr. Chairman.
15 And although she's not in the same square, I don't think that
16 her interest is strong enough to grant party status.

17 CHAIRPERSON HILL: Okay, thank you. And just so
18 I've been informed that -- Madam Secretary, you can tell me
19 if I'm wrong and or if OZLD wanted to let me know that I'm
20 wrong -- that Ms. Evelyn Brown might have thought that this
21 hearing was on 7/17. And so we would do this again on 7/17
22 to see if Ms. Brown would be in attendance.

23 Is that correct, Madam Secretary?

24 MS. MEHLERT: So she filed for also for advanced
25 party status to have the Board decide on the 17th. This was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 after the case had been postponed to October 9th.

2 CHAIRPERSON HILL: Okay. So the case is currently
3 scheduled for the 17th. Is that correct?

4 MS. MEHLERT: No. There's no case on 17th for
5 this. And it was already moved from July 24th to October 9th
6 so we haven't put it on the agenda yet, but if you would like
7 to put her party status request on the meeting agenda for
8 July 17th, we can do that.

9 CHAIRPERSON HILL: All right. I'm mildly
10 confused.

11 Ms. Nagelhout, can you actually hear me? Okay, so, and
12 I'm sorry, I'm just trying to follow along. She thought that
13 for some reason we might be doing this on the 17th. Is that
14 correct?

15 MS. NAGELHOUT: My impression was she asked for
16 the 17th. She asked to have it, or OZ staff told us we're
17 doing this on the 17th.

18 CHAIRPERSON HILL: Okay, okay. So then -- all
19 right. So just to be again cautious, I forget that term that
20 Mr. Moy used to like to use, let's go ahead and come back and
21 decide Ms. Brown's party status on the 17th and see if Ms.
22 Brown thinks it's happening and shows up, okay? Because as
23 part of the regulations, if you don't show up, you don't get
24 a chance to be heard or considered. So we'll go ahead and
25 do that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 Okay, Ms. Mehlert?

2 MS. MEHLERT: Yes.

3 CHAIRPERSON HILL: Okay, so as to the party status
4 of Ms. Mendelson, I'm going to go ahead and make a motion to
5 deny the party status of Ms. Mendelson for application number
6 21151 and ask for a second.

7 Ms. John.

8 VICE CHAIR JOHN: Second.

9 CHAIRPERSON HILL: The motion was made and
10 seconded.

11 Ms. Mehlert, if you'd like to take a roll call.

12 MS. MEHLERT: This is on the Chair's motion to
13 deny party status to Pam Mendelson.

14 Chairman Hill.

15 CHAIRPERSON HILL: Yes.

16 MS. MEHLERT: Vice Chair John.

17 VICE CHAIR JOHN: Yes.

18 MS. MEHLERT: Board Member Blake.

19 MEMBER BLAKE: Yes.

20 MS. MEHLERT: And Dr. Imamura.

21 COMMISSIONER IMAMURA: Yes to deny.

22 MS. MEHLERT: Staff would record the vote as 4-0-1
23 to deny party status on the motion made by Chairman Hill and
24 seconded by Vice Chair John.

25 CHAIRPERSON HILL: Great. Ms. Mehlert, can we add

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., N.W., STE 200
WASHINGTON, D.C. 20009-4309

1 party status again for the next time we have a training? Or
2 at least think about it?

3 MS. MEHLERT: Sure.

4 CHAIRPERSON HILL: Thanks. Okay, do you all
5 want to take a five-minute break and then we'll come back and
6 do the hearing? Okay, so we're going to take a five-minute
7 break. We're going to lose Dr. Imamura. We're going to
8 bring back Mr. Miller. Five, ten minutes, however long it
9 takes, okay? And we'll see you when we see you.

10 (Whereupon, the above-entitled matter went off the
11 record at 11:50 a.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DC BZA

Date: 07-03-24

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.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1716 14TH ST., N.W., STE. 200

WASHINGTON, D.C. 20009-7831