

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY
OCTOBER 11, 2017

+ + + + +

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 9:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LESYLLEE M. WHITE, Board Member
CARLTON HART, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice Chairperson
MICHAEL TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

CHRISTOPHER COHEN, ESQ.

The transcript constitutes the minutes from the Public Meeting held on October 11, 2017.

C-O-N-T-E-N-T-S

CALL TO ORDER:

Chairperson Hill. 4

PRELIMINARY MATTERS:

Secretary Moy. 6

Case Number: 19576

Case Name: Application of William Skelton

Result: Removed from Expedited Review Calendar; Rescheduled to November 1st, 2017 on a hearing session. 7

Case Number: 19572

Case Name: Application of Sim Development, LLC.

Result: Rescheduled to October 25th, 2017. 7

Case Number: 19583

Case Name: Jemal's East 451, LLC

Result: Rescheduled to November 19th, 2017. 7

Case Number: 19586

Case Name: GH Group, LLC

Result: rescheduled to November 8th, 2017. 7

Case Number: 19584

Case Name: Christopher and Katelyn Kimber

Result: Withdrawn. 7

MEETING ACTIONS:

Case Number: 19505

Case Name: Appeal of 57th Street Mews, Inc.

Result: Denied. 18

Case Number: 19410

Case Name: Appeal of ANC 6C

Result: Dismissed as moot. 20

Case Number: 19412

Case Name: Appeal of ANC 6A

Result: Dismissed as moot. 20

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Case Number: 19113B
Case Name: Lerner South Capitol Street JV LLC
Result: Moved to meeting portion of public hearing scheduled on 10/18/17.. 22

Case Number: 19411B
Case Name: Application of 2814 Georgia, LLC
Result: Approved... 25

Case Number: 19580
Case Name: Application of Philip Renzullo
Result: Approved, as amended... 27

Public Meeting Concluded. 27

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

(9:39 a.m.)

1
2
3 CHAIRPERSON HILL: All right, good morning. The
4 hearing will please come to order. We're located in the
5 Jerrily R. Kress Memorial Hearing Room, at 441 4th Street,
6 N.W. This is the October 11th public hearing of the Board
7 of Zoning Adjustment, the District of Columbia.

8 My name is Fred Hill, Chairperson. Joining me
9 today is Carlton Hart, Vice Chair, Lesyllee White, Board
10 Member. And representing the Zoning Commission is Rob Miller
11 for a meeting case. And then we'll be joined by Michael
12 Turnbull for the Zoning Commission.

13 Copies of today's hearing agenda are available to
14 you and located in the lobby near the door. Please be
15 advised that this proceeding is being recorded by a court
16 reporter and is also webcast live. Accordingly, we must ask
17 you to refrain from any disruptive noises or actions in the
18 hearing room.

19 When presenting information to the Board, please
20 turn on and speak into the microphone, first stating your
21 name, and home address. When you're finished speaking,
22 please turn your microphone off, so that your microphone is
23 no longer picking up sound or background noise.

24 All persons planning to testify, either in favor
25 or in opposition, must have raised their hand and been sworn

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1 in by the secretary. Also each witness must fill out two
2 witness cards. These cards are located on the table near the
3 door and on the witness table. Upon coming forward to speak
4 to the Board, please give both cards to the reporter sitting
5 at the table on my right.

6 If you wish to file written testimony, or
7 additional supporting documents today, please submit one
8 original and twelve copies to the secretary for distribution.
9 If you do not have the requisite number of copies, you can
10 reproduce copies on our office printer. The Office of
11 Zoning, located across the hall.

12 The order of procedures for special exception,
13 variances and appeals is also located in the bin, as you walk
14 in the door. The record shall be closed at the conclusion
15 of each case except for any materials specifically requested
16 by the Board. The Board and the Staff will specify at the
17 end of the hearing exactly what is expected. And the date
18 when the persons must submit the evidence to the Office of
19 Zoning.

20 After the record is closed, no other information
21 shall be accepted by the Board. The District of Columbia
22 Administrative Procedures Act requires that the public
23 hearing on each case be held and open for the public,
24 pursuant to Section 405(b) and 406 of that act.

25 The Board may, consistent with its rules of

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1 procedures and the act, enter into a closed meeting on a case
2 for purposes of seeking legal counsel on the case, pursuant
3 to D.C. Official Code Section 2-575(b)(4) and/or deliberating
4 on a case pursuant to D.C. Official Code Section
5 2-575(b)(13). But only after providing the necessary public
6 notice. In the case of an emergency closed meeting, after
7 taking a roll call vote.

8 The decision of the Board in cases must be based
9 exclusively on the public record. To avoid any appearance
10 to the contrary, the Board requests that persons present not
11 engage the members of the Board in conversation. Please turn
12 off all beepers and cell phones at this time so as not to
13 disrupt the proceedings.

14 Preliminary matters are those which relate to
15 whether a case will or should be heard today, such as a
16 request for a postponement, continuance, or withdrawal, or
17 whether proper and adequate notice of the hearing has been
18 given. If you're not prepared to go forward with the case
19 today, or if you believe that the Board should not proceed,
20 now is the time to raise such a matter.

21 Mr. Secretary, do we have any preliminary matters?

22 MR. MOY: Good morning, Mr. Chairman, Members of
23 the Board. We do, but we can take those matters up case-by-
24 case. I do have an announcement on cases that were scheduled
25 on today's docket. And this is for the record.

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1 In the meeting session, Application Number 19576
2 of William Skelton has been pulled from the expedited review
3 calendar, and rescheduled to November 1st, 2017 on a hearing
4 session.

5 On today's hearing session, three cases have been
6 rescheduled. They are Application Number 19572 of Sim
7 Development, LLC., rescheduled to October 25th, 2017.
8 Application Number 19583 of Jemal's East 451, LLC.,
9 rescheduled to November 19th, 2017. And Application Number
10 19586 of GH Group, LLC., rescheduled to November 8th, 2017.

11 And finally, Application Number 19584 of
12 Christopher and Katelyn Kimber has been withdrawn by the
13 applicant. And that's it for me, Mr. Chairman.

14 CHAIRPERSON HILL: Great, thank you, Mr. Moy. If
15 anyone is here wishing to testify before the Board, or if you
16 think you might testify before the Board, if you could please
17 stand and take the oath administered by the secretary.

18 MR. MOY: Good morning. Do you solemnly swear or
19 affirm that the testimony you're about to present in this
20 proceeding is the truth, the whole truth and nothing but the
21 truth?

22 (WITNESSES SWORN)

23 MR. MOY: Thank you, you may consider yourselves
24 under oath.

25 CHAIRPERSON HILL: All right, just so the members

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1 of the audience are aware of how we're going to follow the
2 order. The only change is during the public meeting agenda.
3 We have Commissioner Miller joining us for a decision case.
4 And so we're going to hear the appeal of 19505 first. And
5 then we will follow the order as you see it in the handout.
6 And also we're following the order for the hearing cases as
7 you see it in the handout. That's for the audience.

8 Mr. Moy, you can call our first meeting case
9 whenever you get a chance.

10 MR. MOY: Yes, sir. Thank you, Mr. Chairman. As
11 you've stated that would be Appeal Number 19505. This is
12 57th Street Mews, Inc. as caption advertised. This is an
13 appeal from the decision made on February 28th, 2017 by the
14 Zoning Administrator, Department of Consumer and Regulatory
15 Affairs, to revoke building permit Number B1307755, which
16 would permit the construction of an addition to a one-family
17 dwelling and conversion to an 18-unit apartment building in
18 the R-4, formerly C-2-A, Zone at premises 1511 A Street,
19 N.E., Square 1070, Lot 0094. And as the Board is aware, this
20 was last convened at its decision meeting session, on
21 September 13th.

22 CHAIRPERSON HILL: Okay, right. Thank you, Mr.
23 Moy. Is the Board ready to deliberate?

24 Okay, so as we all know, the last time we were
25 here deliberating this case, we came to a -- we were stuck

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1 at a 2-2 draw. And so, we went and took a little bit more
2 time to go ahead and review the record.

3 For the record, I would like say that I do feel,
4 I don't know what the word is, a little badly for everybody
5 involved. I mean it's just like there's so much legal cost
6 that has gone into this. And so much time, and effort, and
7 energy that it is just disappointing that it got up to this
8 point. It's taken this long to get to some kind of
9 resolution for everyone.

10 So, I'd go ahead and again ask the Board to tell
11 us a little bit about where each person still is. If it's
12 all right, Mr. Hart, I'll start with you?

13 MEMBER HART: Sure. Thank you, Mr. Chairman.
14 Yes, I think that taking time to kind of relook at this
15 information helps to clarify, and to give just additional
16 information, and to really understand. And to make sure that
17 the position the -- what I'd stated at the previous hearing
18 back in September was something that I definitely believed.
19 And was something that I, whether or not that was something
20 that I still would continue to believe.

21 And after reviewing the record and looking at the,
22 actually the video as well. I believe that I'm still at the
23 same place, which is that I think that the applicant, that
24 the permit was not revoked. I didn't think that it was
25 revoked appropriately. I thought that there was, that it was

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1 still valid. That the permit was still valid and that it was
2 vested under the C-2-A zoning. And that I think that it
3 should be seen as such. And that the revocation of that
4 permit in, I guess it was earlier this year, was not
5 something that I would support.

6 And that I think that this case is important. And
7 it really talks about the process that the applicant went
8 through from 2013 to actually, I guess to this year. And the
9 different elements that are included in that, including a
10 rezoning that happened during that time. And having the
11 various aspects of the permit either rejected or revoked.
12 And then kind of reinstated later. And then the whole Office
13 of Administrative Hearing process.

14 I think all of that kind of speaks to a prolonged
15 effort for the applicant to be able to have a project
16 developed under a zoning that was in effect when it actually
17 put the application forward. I'm not speaking to how the
18 applicant went about the process, just about the process in
19 terms of notifying the neighbors about what it is they wanted
20 to do. But really about what they were, what the applicant
21 was trying to do -- I say the applicant, I mean the Appellant
22 -- was trying to do.

23 And I think that I'm still at that point. And I
24 didn't want to go through the whole date, timeline. I think
25 that's something I've already kind of discussed and talked

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1 about and it just seems, I'm still at the same point. So,
2 I thought that was repetitive. And didn't think that would
3 help anybody. So, that's it.

4 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
5 Hart. Mr. Miller.

6 MEMBER MILLER: Thank you, Mr. Chairman. This has
7 been, as I said previously when we deliberated, a very
8 frustrating case, as you said, Mr. Chairman, for all parties,
9 and for the neighborhood, and for DCRA. And I guess to
10 reiterate, and I think you can come up reasonable
11 interpretations on both sides. I hate to use that phrase,
12 "on both sides". But you come up with reasonable
13 interpretations.

14 For me the two dates, and there were a lot of
15 dates where approvals were being given, and then withdrawn,
16 and given, renewed, and given. It's just mind boggling. But
17 the two dates in my mind which are important. Two of the
18 dates that are important, are December 2014 when the Zoning
19 Commission set down the rezoning case for this property and
20 other nearby properties for a hearing to change it from C-2-A
21 to R-4. And the other date is the May 2015 effective date
22 of that rezoning. Had a hearing in March.

23 And on December 2014, to be eligible for the
24 vesting under C-2-A, the applicant had to have submitted --
25 in my mind, nobody really presented this as an argument, but

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1 this is just how I looked at it -- a substantially completed
2 application under the zoning regulations.

3 And at that point, I don't think there was a
4 substantially completed application. I think they rushed to
5 get this in before the rezoning that they knew was happening.
6 They didn't have a certified professional engineer license
7 certification on the application.

8 And the zoning review had been revoked in October
9 according to testimony that I elicited from the Zoning
10 Administrator, because the building measuring height, the
11 building height was wrong. Because of the grade that they
12 were measuring from, which is kind of a huge issue. And so
13 it was even higher than what was permitted in C-2-A.

14 So, I don't think they were eligible for arresting
15 because they didn't have a substantially completed
16 application by the time the Zoning Commission setdown in
17 December 2014. And they certainly never were issued a permit
18 before May 2015, when the Zoning Commissioner rezoned the
19 property to R-4. In fact, it wasn't until 16 months later,
20 September 2016 when DCRA issued a permit, which it
21 subsequently revoked. That was 16 months after the rezoning.

22 I know you're supposed to only look at the record
23 of the case before you. But I went back and did look at the
24 record of the rezoning case, because this property was
25 discussed extensively at that hearing. I had dialog with the

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1 Appellant, applicant, developer at the hearing, saying do you
2 think you're really vested?

3 Anyway, the record is ambiguous as to whether
4 anybody thought about whether it was vested or not. I
5 thought it would provide me the magic bullet that we all were
6 looking for in this case. But what was clear from looking
7 at that record was that this project is totally inconsistent
8 with the 2006 Comprehensive Plan designation. It's out of
9 scale, out of character. At 18 units, it's out of the
10 density.

11 They may have been able to do a 6 unit apartment
12 building under what was then the old R-4. I think that may
13 be reduced now under the new R-4. And they probably could
14 have worked something out with the neighborhood if they'd
15 even bothered to work with the neighborhood, or talk with the
16 neighborhood, which it looks like there was hardly any
17 consultation in this case.

18 So, because there are reasonable interpretations
19 on each side, the Comp plan to me, sways this in favor of the
20 innovator, ANC Brian Alcorn position, that this appeal by the
21 applicant, developer, Appellant should be denied. The BZA
22 is required in the law to look at the Comprehensive Plan in
23 cases. So, that is where I am, Mr. Chairman.

24 I was open to looking at this equitable vesting
25 concept, but I couldn't get there because I saw nothing in

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1 the statute or regulations that would support that concept.
2 And I was worried about the slippery slope that that -- of
3 us affirming that concept -- might create for future cases.
4 So, that's where I am right now.

5 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
6 Miller. So, Ms. White it comes down to us. Go ahead, and
7 let us hear what your thoughts are.

8 MEMBER WHITE: Okay, I have some thoughts here.
9 I'm the newest member of the Board. And I have a legal
10 background so, you know, I took a very close look at the case
11 after we kind of deadlocked. I wanted to take a closer
12 review of the case thoroughly, reviewing the record. As Mr.
13 Miller said, you know, I took into consideration his
14 comments. Looking at the 2006 Comprehensive Plan and
15 reviewing, you know, the community's concerns. Even though
16 that wasn't really the height of what I took into
17 consideration.

18 But I will say now that I am inclined to deny the
19 appeal, finding that the application for the building permit
20 did not vest under C-2-A zoning. After taking another look
21 at Mr. Miller's comments last week, the record, which is
22 huge. I've fallen asleep on it a number of times. And I
23 find that, you know, the September 7th, 2016 permit when
24 issued wasn't valid, because the application should have been
25 approved under the requirements under the R-4 Zone district.

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1 The original application that was dated June 2013,
2 didn't vest because it wasn't the application that was
3 ultimately approved by the DCRA, and for which the building
4 permit was issued.

5 There are a few other things that I looked at too.
6 You know, I wanted to be clear that I was -- you know, I
7 wanted it to be clear that I was very uncomfortable with
8 DCRA's processing of the application.

9 So that's why I looked very closely at the time
10 lines, and the record. And the reasons for accepting, as
11 well as rejecting the application from 2013 until the Office
12 of Administrative Hearing -- which is also referred to as OAH
13 -- heard the case and issued an order in June 17, 2016 that
14 held that the March 20th, 2015 rejection by DCRA was
15 erroneous.

16 And they held that the application -- holding the
17 rejection of the application was null and void. And ordered
18 DCRA to accept the new filing and the new plan. So that's
19 where I kind of got stuck before.

20 But in looking at it a little closer, I noted in
21 the record, you know, that in February of 2015, you know,
22 OAH, it also addressed other issues regarding the revocation
23 of the professional engineer's license in D.C. because there
24 was some disciplinary action that happened in Virginia. And,
25 you know, it was revoked. And DCRA notified the Appellant

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1 at that time in its March 2015 letter.

2 So, the Appellant was advised by the Code Official
3 to submit the new plans, stamped by the engineer licensed in
4 D.C. And that the proposed construction would have to comply
5 with the zoning regulations applicable at the date of the
6 application.

7 So, I looked at the timing of the rezoning. As
8 Mr. Miller said, December 2014 the Zoning Commission had a
9 setdown case regarding the map amendment to rezone that area
10 from C-2-A to R-4. And in May 29th of 2015 was actually the
11 effective date of the rezoning from R-4 to C-2-A. So after
12 OAH decision in June, ordering DCRA to accept the new plans.
13 Appellant filed by DCRA on July 1st, 2016, but it was
14 ultimately accepted in July 2016, and the permit was actually
15 issued in September 7th of 2016.

16 And then on February of that year, which was
17 another thing that kind of threw me the last time, you know,
18 a notice to revoke the permit was issued in error because --
19 the September 2016 permit they're saying was issued in error
20 because it was approved under C-2-A when it should have been
21 approved under R-4.

22 So, in conclusion, I agree with the OAH order in
23 June of 2016, that the rejection of the application was
24 erroneous because of DCRA's malfeasance. And also I find
25 that the application for the building permit filed

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1 originally, in June of 2013 is not revived.

2 So, therefore, I'm considering that there's
3 actually two applications. I'm considering that the July 26,
4 2016 application as the new application. And that any
5 vesting rights that correspond with the June 2013
6 application, aren't going to be revived. And the new
7 application must be revived under the R-4 zoning. And
8 therefore, it was properly revoked by DCRA in my mind.

9 So those are my long winded comments. I rarely
10 change my mind, but I think it was important to really look
11 closer at the facts. I think as Mr. Miller said, it could
12 have gone either way, but I think there were some compelling
13 facts that supported the fact that it needed to be considered
14 under the R-4 zoning rules, because of the vesting period.

15 CHAIRPERSON HILL: Okay great. Thank you, Ms.
16 White. Well, thank you all for all of your input, Mr.
17 Miller, Ms. White, Mr. Hart. I haven't changed my thoughts
18 on it from the last time that we were together. I'm not
19 going to go through the long again, timeline of the different
20 things, as now has been even further clarified by the
21 discussion with Ms. White.

22 I'm just, you know, kind of even more in line with
23 the discussion that Mr. Miller had kind of like pointed out,
24 In terms of, you know, and Ms. White had mentioned that the
25 December 2014 setdown from C-2-A to R-4. And then of the

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1 effective date of May 2015. It wasn't until 16 months later
2 that there was actually the permit there in September of
3 2016.

4 So, I also think Mr. Miller that there was an
5 incomplete application during that time there between 2014,
6 December to 2015, May. So, I'm not changing my thoughts on
7 this. So, I'll humbly disagree with Mr. Hart. And I'm going
8 to make a motion to deny Appeal Number 19505. And ask for
9 a second.

10 MEMBER MILLER: Second.

11 CHAIRPERSON HILL: Motion made and seconded. All
12 those in favor?

13 (Chorus of ayes)

14 CHAIRPERSON HILL: All those opposed?

15 MEMBER HART: Nay.

16 CHAIRPERSON HILL: Motion passes. Mr. Moy.

17 MR. MOY: Staff would record the vote as 3-1-1.
18 This on the motion Chairman Hill, to deny the appeal. Second
19 to the motion, Mr. Robert Miller. Also voting to deny Ms.
20 White. And Mr. or Vice Chair Hart voting to oppose the
21 motion. My report seat vacant. Your motion carries, Mr.
22 Chairman.

23 CHAIRPERSON HILL: Okay. And again, it's just,
24 I really just feel for both sides in this, in terms of how
25 much time, and effort, and energy has gone into this.

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1 So, I guess, Mr. Moy -- I'm sorry, Mr. Miller.

2 MEMBER MILLER: No, you probably already -- going
3 there. Do we have to do something with the other --

4 CHAIRPERSON HILL: Yes, I was just about to say,
5 so then there was the appeal of ANC Number 19410 and 412.
6 That was 19410, right?

7 (Simultaneous speaking)

8 MR. MOY: Yes, 19410 --

9 CHAIRPERSON HILL: And 19412.

10 MR. MOY: And 19412, they were consolidated
11 appeals of ANC 6C and ANC 6A.

12 CHAIRPERSON HILL: That was held in abeyance,
13 right?

14 MR. MOY: Pending rendering the decision of this
15 appeal that you just --

16 CHAIRPERSON HILL: So now, I'm looking OAG, is it
17 moot? Do we have to --

18 MR. COHEN: Well, yes the Board would have to
19 determine if there is any live controversy to adjudicate, and
20 proceed accordingly.

21 So, Mr. Chair, in plain English, if you feel that
22 the issues from deciding have been resolved, as in deciding
23 the previous appeal. The Board has the option to dismiss the
24 current cases as moot.

25 Otherwise, the Board would have to render a

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1 decision regarding those appeals as well.

2 CHAIRPERSON HILL: Yes, unless the Board has a --
3 I mean I think based upon the discussion that we had, and the
4 denial of the previous appeal. That currently makes this
5 appeal moot. And I would just, can you do a consensus, or
6 just on consensus?

7 MR. COHEN: The Board should make a motion.

8 CHAIRPERSON HILL: Okay. So, I make a motion that
9 Appeal Number 19410 and 19412 of ANC 6C and ANC 6A is moot.

10 MR. COHEN: Is dismissed and moot.

11 CHAIRPERSON HILL: Is dismissed and moot.

12 MEMBER MILLER: I would second that.

13 CHAIRPERSON HILL: Thank you. Motion has been
14 made and seconded. All those in favor?

15 (Chorus of ayes)

16 CHAIRPERSON HILL: Aye, all those opposed?

17 (No response)

18 MR. MOY: Staff would record the vote as 4-0-1.
19 This on the motion of Chairman Hill to dismiss the
20 consolidated appeals, 19410 and 19412 as moot. Second of the
21 motion was Mr. Robert Miller. Also, agreeing to the motion,
22 Vice Chair Hart, and Ms. White. A Board seat vacant. Motion
23 carries, sir.

24 CHAIRPERSON HILL: Thank you, Mr. Moy. And thanks
25 again all of you Members for all of your participation in

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1 this, Mr. Miller as well.

2 (Pause)

3 CHAIRPERSON HILL: We'll just take like a quick
4 couple minutes here, so we're switching out Commissioners.

5 (Whereupon, the above-entitled matter went off the
6 record at 10:09 a.m. and resumed at 10:11 a.m.)

7 CHAIRPERSON HILL: All right Mr. Moy, whenever
8 you're ready. I guess we can start at the top for the public
9 meeting?

10 MR. MOY: Okay, at the top. Okay, thank you, Mr.
11 Chairman. We have on your docket a very quick preliminary
12 matter for an application that the Board will be taking up
13 on October the 18th. That would be Application Number 19113B
14 of Lerner South Capitol Street JV, LLC. This was caption
15 advertised for minor modifications to the plans approved in
16 BZA Order Number 19113 to permit retail/service use within
17 all or a portion of the ground floor, to reconfigure the
18 ground floor layout, the parking, loading and bicycle parking
19 facilities, and the North penthouse enclosure.

20 To permit the addition of balconies to certain
21 units and to modify the range of dwelling units permitted in
22 the proposed multi-family apartment building in the C-3-C
23 District at premises 1000 South Capitol Street S.E., Square
24 697, Lot 46.

25 As the Board is aware, this was heard on October

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1 the 4th. And as I said earlier, rescheduled to the 18th.
2 And I believe it's up for preliminary, for clarification on
3 the status.

4 CHAIRPERSON HILL: Thank you, Mr. Moy. So, if the
5 Board recalls, we did talk about this on October 4th, and
6 there were some questions that we had. That we had wanted
7 to -- where we'd talked about putting this in as a hearing
8 on October 18th.

9 After talking with the OAG a little bit more, and
10 also the Staff. I think that we could move this to a meeting
11 decision on the same date of October 18th. And the reason
12 that I'm thinking that we should do that is that we really
13 don't have enough time to provide notice concerning the
14 hearing, as a hearing date.

15 And I think we will be able to get the
16 information that we need in order to deliberate as a meeting,
17 rather than a hearing. So, unless the Board has any thoughts
18 or comments, I'm going to go ahead and just make a -- do I
19 make a motion, Mr. Moy, or is that -- okay, then we're just
20 going to go ahead and do this by consensus, which is move
21 this Application Number 19113B from a hearing to the meeting
22 portion of our hearing that day.

23 MR. MOY: Okay, thank you. Thank you, sir.
24 Okay, so moving on in the meeting session.

25 Then the next item I believe is Application Number

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1 19411B of 2814 Georgia, LLC. This is request for a minor
2 modification. This what was submitted by the applicant, for
3 a minor modification to the conditions of BZA Order Number
4 19411-A to permit the storage of trash in a public space in
5 connection with the construction of a new, four-story,
6 10-unit apartment building in the MU-4 Zone at premises
7 2812-2814 Georgia Avenue N.W., Square 2886, Lots 330 and 331.

8 Staff would just like to add to that caption, Mr.
9 Chairman, that the applicant was making reference in their
10 modification to relocate the trash storage under the revised,
11 or approved plans, revised plans. As well as eliminating
12 Condition 2.

13 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
14 Moy. Is the Board ready to deliberate?

15 Okay, so what I think what we needed to do first
16 was again kind of establish whether this was a minor
17 modification, or a modification of consequence, or also a
18 modification of significance.

19 I think that after kind of discussing things with
20 the Office of the Attorney General, I would be inclined to
21 think that this is more a modification of consequence due to
22 the fact that they are asking to change a condition. So,
23 what that would require the Board to do is set a time table
24 for responses from the parties involved in the original case.

25 However, the parties have already responded that

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1 were involved in the original case. Meaning the ANC 1B,
2 which actually was in support of this request. The Office
3 of Planning has also provided a report into why they're in
4 support and their analysis of this request.

5 It would require also the applicant to waive their
6 right to respond to the ANC. However, I think that since the
7 ANC is in support of the applicant, it would be kind of null
8 and void. I mean the applicant, you know, there's nothing
9 for them to respond to. So, that would kind of be my first
10 thought concerning this.

11 In terms of the actual request, I do again agree
12 with the analysis the Office of Planning had provided, and
13 also in citing the fact that ANC 1B is in support of this.
14 So, I don't have particularly any issues. I would make it
15 a slightly modified motion if we were to get to it, which
16 would be just to approve the revised plans that were shown
17 in Exhibit 3. And also eliminate the condition Number 2.
18 But I just want to see if the Board has anything to add
19 before I went to that point.

20 (No response)

21 CHAIRPERSON HILL: No, okay. All right, then I'll
22 go ahead and make a motion to approve Application Number
23 1911B of 2814 Georgia Avenue, for a modification of
24 consequence. Approving the revised plans as shown in Exhibit
25 3. And eliminating condition Number 2. And ask for a

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1 second.

2 MEMBER WHITE: Second.

3 CHAIRPERSON HILL: The motion is made and
4 seconded. All those in favor?

5 (Chorus of ayes)

6 CHAIRPERSON HILL: All those opposed?

7 (No response)

8 CHAIRPERSON HILL: The motion passes. Mr. Moy.

9 MR. MOY: Staff would record the vote as 4-0-1.
10 This on the motion of Chairman Hill to approve the request
11 for this case, a modification of consequence. Seconded the
12 motion, Ms. White. Also in support of the motion, Mr.
13 Michael Turnbull, Vice Chair Hart. And Board seat vacant.
14 The motion carries, sir.

15 CHAIRPERSON HILL: Need a summary order?

16 MR. MOY: Yes, sir.

17 CHAIRPERSON HILL: Thank you.

18 MR. MOY: The next application before the Board
19 for decision is Application Number 19580, Phillip Renzullo.
20 This is as amended, request for special exceptions under
21 Subtitle D, from the rear yard requirements of Subtitle D,
22 Section 306.1, the side yard requirements of Subtitle D,
23 Section 307.1, and the nonconforming structure requirements
24 of Subtitle C, Section 202.2. This would construct a second
25 floor rear addition to an existing one-family dwelling, R-1-B

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1 Zone at premises 3605 Patterson Street N.W., Square 1863, Lot
2 36.

3 CHAIRPERSON HILL: Thank you, Mr. Moy. Is the
4 Board ready to deliberate?

5 Okay. I can start. I really didn't have a lot
6 of thoughts in terms of this request. I did agree with the
7 report that the Office of Planning had provided, in terms of
8 their analysis as to why we should approve this. I think
9 that the ANC 3G was also in support, or provided support 10-
10 0-0. I thought it was a cute house. So, I didn't really
11 have any particular issues. Does the Board have anything
12 they'd like to add?

13 MR. TURNBULL: I am good. I think the project was
14 nicely drawn. I think that it meets our requirements.

15 CHAIRPERSON HILL: The Architect of the Capitol
16 has approved. So, yes, sure.

17 MEMBER HART: Mr. Chairman, just one clarification.
18 This is the -- the ANC actually voted 4-0. They were I guess
19 a smaller ANC, looking at the Exhibit 33 in the case.

20 CHAIRPERSON HILL: Oh, I'm sorry.

21 MEMBER HART: I just wanted to make sure that we
22 were --

23 CHAIRPERSON HILL: Which ANC did you get the --

24 MEMBER HART: ANC 3G.

25 CHAIRPERSON HILL: Yes. Oh 4-0?

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1 MEMBER HART: Yes.

2 CHAIRPERSON HILL: Okay. Thank you for that
3 clarification. So, I'll go ahead and make a motion to
4 approve Application Number 19580 as read by the secretary.

5 MR. TURNBULL: Second.

6 CHAIRPERSON HILL: Motion is made and seconded.
7 All those in favor?

8 (Chorus of ayes)

9 CHAIRPERSON HILL: All those opposed?

10 MR. MOY: Sorry about that, sir.

11 CHAIRPERSON HILL: That's all right. Sometimes
12 that means I'm doing something wrong.

13 MR. MOY: No, no, I was a little, just got stuck
14 in a discussion.

15 CHAIRPERSON HILL: So, the motion passes, Mr. Moy.

16 MR. MOY: Yes, I caught that part. Staff would
17 record the vote as 4-0-1. This on the motion of Chairman
18 Hill to approve the application for the relief requested.
19 Second of the motion, Mr. Michael Turnbull. Also in support,
20 Ms. White and Vice Chair Hart. For the Board seat vacant.
21 The motion carries.

22 CHAIRPERSON HILL: Summary order, Mr. Moy.

23 MR. MOY: Thank you, sir.

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

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