

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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WEDNESDAY, NOVEMBER 8, 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 MEMBER PRESENT:

MICHAEL TURNBULL, Architect of the Capitol Designee
Appointee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRYAN GOLDEN
KAREN THOMAS

The transcript constitutes the minutes from the Public Meeting held on November 8, 2017.

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Adjourn 15

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

(9:42 a.m.)

CHAIRPERSON HILL: Good morning, everyone. The hearing will please come to order.

We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the November 8th Public Hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice Chairperson; Lesyllee White, Board Member; and representing the Zoning Commission is Michael Turnbull to which later will also be Rob Miller for once Michael Turnbull -- Rob Miller will be joining us for one case.

Copies of today's hearing agenda are available to you and are located in the wall bin near the door. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises, any disruptive noises. When presenting information to the Board please turn on and speak into the microphone, first stating your name and home address. When you're finished speaking, please turn off your microphone so that your microphone is no longer picking up sound or background noise.

All persons planning to testify either in favor

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

7 If you wish to file written testimony or
8 additional supporting documents today, please submit one
9 original and 12 copies to the secretary for distribution.
10 If you do not have the requisite number of copies, you can
11 reproduce copies on our office printer in the Office of
12 Zoning located across the hall.

13 The order of procedures for special exceptions,
14 variances, and appeals is also listed in the bin as you come
15 into the door there to your right.

16 The record shall be closed at the conclusion of
17 each case, except for any materials specifically requested
18 by the Board. The Board and the staff will specify at the end
19 of the hearing exactly what is expected, and the date when
20 the person must submit the evidence to the Office of Zoning.
21 After the record is closed no other information shall be
22 accepted by the Board.

23 The District of Columbia Administrative Procedures
24 Act requires that the public hearing on each case be held in
25 the open before the public pursuant to Section 405(b) and 406

1 of that act. The Board may, consistent with its rules of
2 procedures and the act enter into a closed meeting on a case
3 for purposes of seeking legal counsel on a case pursuant to
4 D.C. Official Code Section 2-575(b)(4), and/or deliberating
5 on a case pursuant to D.C. Official Code Section 2-
6 575(b)(13), but only after providing the necessary public
7 notice; and in the case of an emergency closed meeting after
8 taking a roll call vote.

9 The decision of the Board in cases must be based
10 exclusively on the public record. To avoid any appearance
11 to the contrary, the Board requests the persons present not
12 engage the members of the Board in conversation.

13 Please turn off all beepers and cell phones at
14 this time not to disrupt the proceedings.

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

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

23 Mr. --

24 MR. MOY: Good morning, Mr. Chairman, Members of
25 the Board. There are preliminary matters but I think those

1 are best addressed when I call it case by case.

2 Other than that, as to the -- as to today's docket
3 I'd like to announce for the record the cases that have been
4 postponed and rescheduled.

5 There are eight cases that have been rescheduled.
6 The first six cases I'm going to announce have been
7 rescheduled to December 6th, 2017. These six cases are:

8 Application Numbers 19616 of Thomas Jefferson Real
9 Estate, LLC;

10 19617 of Aaron Cobet, C-O-B-E-T;

11 19623 OF Creative Grounds DC;

12 19625 of 61 Rhode Island Avenue NE, LLC;

13 19626 of -- 19626 of Fort Lincoln Retail, LLC,

14 and;

15 19629 of Timothy and Charlotte Lawrence.

16 All these six rescheduled to December 6th.

17 We have one case rescheduled to December 20th,
18 2017. This is Application Number 19600 of Team Washington,
19 Inc. d/b/a Domino's Pizza. And Application Number 19567 of
20 Aung Myint, M-Y-I-N-T, has been postponed, rescheduled to
21 January 10th, 2018.

22 And that's it from the staff, Mr. Chairman.

23 CHAIRPERSON HILL: Thank you, Mr. Moy.

24 For those here who are going to testify before us,
25 if you could please stand and take the oath administered by

1 the secretary to my left.

2 MR. MOY: Good morning. Ladies and gentlemen, you
3 may consider yourselves under oath.

4 CHAIRPERSON HILL: All right. Good morning,
5 everyone. Just to let you know the order in which we're
6 going to go, there was a little bit of a mix-up with the
7 agenda that was put forth in the bin as you were coming into
8 the room. So, first of all we are going to go through the
9 meeting agenda in the order that it was put forth:

10 Application No. 19131B is going to go first, then
11 Application 19612.

12 In the hearing we're going to, this is the order
13 we're going to follow in:

14 The first is going to be Application 19558;
15 followed by Application 19601. Then we're going to jump to
16 Application No. 19609, followed by Application 19610. And
17 we're going to end with 19609.

18 All right, I'm sorry, I was just corrected. The
19 last one that we're actually going to go with is 19586. Yes,
20 the GH Group. That's the last one. Okay.

21 All right, Mr. Moy, you can go ahead and call our
22 first meeting case.

23 MR. MOY: Thank you, Mr. Chairman. There are two
24 cases on the decision meeting session. The first is Request
25 for a Time Extension, and this is to Case Application No.

1 19131B, B as in Bravo, of Delta Sigma Theta Sorority. Again,
2 this is a request for a 2-year time extension of BZA Order
3 No. 19131A approving a variance from the non-profit
4 organization requirements under Section 217.1(b), and a
5 special exception from the non-profit organization
6 requirements under Section 217.1 which would permit the use
7 of an existing residential building for a non-profit office
8 use in the D\DC\R-5-B District.

9 The permit says 1711 New Hampshire Avenue, N.W.,
10 Square 154, Lot 26.

11 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
12 Moy.

13 Is the Board ready to deliberate?

14 MEMBER WHITE: Mr. Chairman, I just wanted to for
15 the record just make a quick statement about this case. I
16 wanted to just for the record, you know, indicate that I did
17 review the record thoroughly, obviously.

18 This is a request for a 2-year time extension.
19 But I wanted to make sure, you know, for the record that
20 members of the Board and the public knew that I was actually
21 a member of Delta Sigma Theta Sorority. It's a 300,000
22 member sorority with over 900 chapters all over the, all over
23 the world.

24 But even though I feel like I could be fair and
25 neutral in making a decision, I want to avoid even the

1 appearance of any conflict. So I'm going to recuse myself
2 from this particular case.

3 CHAIRPERSON HILL: Okay, great. Thank you.

4 Is anyone else a member?

5 (No audible response.)

6 CHAIRPERSON HILL: Okay. All right.

7 Let's see. So, upon reviewing the record I didn't
8 really have a lot of issues. I guess the main thing was
9 whether or not the Applicant has good cause for the good time
10 extension due to the conditions. And specifically, there
11 was, well, there was a filed affidavit from the Executive
12 Director of Delta Sigma Theta in which she details a little
13 bit more about the good cause as well as the notes for the
14 delay about the complicating design of the financial process
15 due to the work that was necessary to preserve and enhance
16 the front side of the building.

17 But I don't have any issues with the time
18 extension.

19 Does anyone else have anything else they'd like
20 to add?

21 VICE CHAIRPERSON HART: Mr. Chairman, --

22 CHAIRPERSON HILL: Sure.

23 VICE CHAIRPERSON HART: -- it looks as though the
24 -- while the ANC did not itself weigh in, the single member
25 district did weigh in. And he did not have any issues with

1 the project. He just noted there was just a little issue
2 with their scheduling of their ANC meeting. He -- but I just
3 wanted to make sure that we were kind of had understood there
4 was a reach-out to the ANC.

5 There is somewhat of a response from one of the
6 members of the ANC, even though the full ANC did not vote on
7 their support or not for the case.

8 CHAIRPERSON HILL: Okay, great. Thank you.

9 And also, right, the Office of Planning has
10 provided a report to us in terms of how they believe that the
11 criterion has also been met.

12 Mr. Turnbull, do you have anything to add?

13 MR. TURNBULL: No. I was just going to say I think
14 the OP report at Exhibit Number 9 basically echoed what you
15 had said in the beginning. So I have no objections to going
16 ahead, and I'm, I'm fine with this.

17 MS. GLAZER: Mr. Chair, I just wanted to interrupt.
18 I was trying to make a statement about the ANC issue. Under
19 the rules, the ANC has 30 days to respond. And the Board
20 should make a determination to assert that it did receive
21 notice.

22 CHAIRPERSON HILL: Thank you. I do appreciate
23 that.

24 I was speaking to the secretary. I guess the
25 secretary there, they have had 30 days; is that correct?

1 MR. MOY: That's correct, sir, according to the
2 records.

3 CHAIRPERSON HILL: Okay. All right. All right,
4 so that all being the case, then I'll go ahead and make a
5 motion to approve Application No. 19131B as announced by the
6 secretary and ask for a second.

7 VICE CHAIRPERSON HART: Second.

8 CHAIRPERSON HILL: Motion made and seconded.

9 All those in favor.

10 (Chorus of aye.)

11 CHAIRPERSON HILL: All those opposed?

12 (No audible response.)

13 CHAIRPERSON HILL: Motion passed.

14 Mr. Moy.

15 MR. MOY: Staff would record the vote as 3 to 0 to
16 2. This is on your motion, Mr. Chairman, to approve the
17 application for the request for a 2-year time extension of
18 the order.

19 Seconded the motion, Vice Chair Hart. Also in
20 support Mr. Michael Turnbull.

21 We have a member recused and not participating,
22 and a seat vacant.

23 The motion carries.

24 CHAIRPERSON HILL: All right, thank you, Mr. Moy.

25 A summary order.

1 MR. MOY: Thank you, sir.

2 The next case application for decision which is
3 under the expedited review, an expedited review calendar
4 case, this is Application No. 19612 of Elizabeth Boison, B-O-
5 I-S-O-N. Advertised caption for a special exception relief
6 under Subtitle D, Section 5201; from the rear yard
7 requirements of Subtitle D, Section 306.1; and from the
8 prohibitions against expanding non-conforming structures at
9 Subtitle C, Section 202.2 which would construct a rear
10 addition to an existing one-family dwelling, R-1-B Zone at
11 premises 3909 Huntington Street -- Huntington Street, N.W.,
12 Square 1754, Lot 915.

13 CHAIRPERSON HILL: Thank you, Mr. Moy.

14 Is the Board ready to deliberate? Okay.

15 So, I can begin if you like. After reviewing the
16 record concerning this expedited review I would be in
17 agreement with the report and the analysis provided by the
18 Office of Planning. The ANC 3E did also have a condition.
19 And that condition was that the Applicant shall provide a
20 rain barrel on the property.

21 I thought the condition had merit, and so I would
22 be also in support of that condition.

23 The rear yard and the 25 feet requirements,
24 there's 23 feet existing and 23 feet proposed. And, again,
25 I thought that the Office of Planning did an excellent job

1 with their description of criteria to grant the application.

2 Does the Board have any comments?

3 MEMBER WHITE: No. I, I concur with you, Mr.
4 Chair. I think that they, they met the criteria to, to get
5 the relief for a special exception under the regulation
6 indicated in the application.

7 CHAIRPERSON HILL: Okay, great. So then I'll go
8 ahead and make a motion to --

9 MR. TURNBULL: Mr. Chair, one maybe just for the
10 record?

11 CHAIRPERSON HILL: Sure. Go ahead.

12 MR. TURNBULL: It's non-conforming but it also
13 predates 1958, which I think is one of the other factors that
14 needs to be incorporated. And so I think that with that,
15 with the date and the timing of the nonconformity I'm totally
16 in support of this.

17 CHAIRPERSON HILL: All right, thank you,
18 Commissioner Turnbull. Thank you for pointing that out as
19 well.

20 I'll go ahead and make a motion to approve Case
21 No. 19162 as read by the secretary and ask for a second.

22 MEMBER WHITE: Second.

23 CHAIRPERSON HILL: The motion has been made and
24 seconded.

25 All those in favor.

1 (Chorus of aye.)

2 MR. MOY: Before you vote.

3 CHAIRPERSON HILL: Yes, sir, of course.

4 MR. MOY: Your motion to approve includes the
5 conditions?

6 CHAIRPERSON HILL: Yes, I'm sorry.

7 MR. MOY: Okay. I just wanted it clear.

8 CHAIRPERSON HILL: Thank you. So, again I'll
9 restate. I'm going to make a motion to approve Application
10 No. 19612 as read by the secretary, and as well the condition
11 that the Applicant shall provide a rain barrel on the
12 property. And ask for a second again.

13 MEMBER WHITE: I again will second with that
14 condition.

15 CHAIRPERSON HILL: Motion made and seconded.

16 All those in favor.

17 (Chorus of aye.)

18 CHAIRPERSON HILL: All those opposed.

19 (No audible response.)

20 CHAIRPERSON HILL: Motion passed.

21 Mr. Moy.

22 MR. MOY: Staff would record the vote as 4 to 0 to
23 1. This is on the motion of Chairperson Hill to approve the
24 application with the relief requested, along with one
25 condition.

1 Second to the motion of Ms. White. Also support,
2 Mr. Michael Turnbull and Vice Chair Hart.

3 We have a Board seat vacant.

4 The motion carries.

5 CHAIRPERSON HILL: Thank you, Mr. Moy.

6 Summary order.

7 MR. MOY: Thank you.

8 CHAIRPERSON HILL: We'll welcome the commissioner
9 here to the table with us.

10 (Whereupon, the above-entitled matter went off the
11 record at 10:00 a.m.)

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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: DCBZA

Date: 11-08-17

Place: Washington, DC

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



Court Reporter

NEAL R. GROSS

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