

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

FEBRUARY 14, 2018

+ + + + +

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)
 LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the Public Meeting held on February 14, 2018.

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

9:40 A.M.

CHAIRPERSON HILL: Hi everyone, we'll go ahead and get started here. 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 February 14th 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 also Lorna John joining us today. Also, welcome, Ms. John, joining us today for the Board. Representing the Zoning Commission is Anthony Hood.

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

When presenting information to the Board, please turn on and speak into the microphone, stating your name and home address. When you're finished speaking, 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

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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 on the witness table as you come in to the table
5 there. Please give those cards to the reporter sitting to
6 the table at 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 an office printer in the Office of
12 Zoning located across the hall.

13 The order of procedures for special exceptions and
14 variances, as well as appeals, are also located on the
15 information as you come in to the hearing room.

16 The record shall be closed at the conclusion of
17 each case except for any material specifically requested by
18 the Board. The Board and the staff will specify at the end
19 of the hearing exactly what is expected and the date when the
20 persons 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 Procedures Act requires
24 that the public hearing on each case be held in the open
25 before the public pursuant to Section 405(b) and 406 of that

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

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

12 Please turn off all beepers and cell phones at
13 this time so as not to disrupt the proceeding.

14 Preliminary matters are those which relate to
15 whether a case will or should be heard today, such as
16 requests for postponement, continuance or withdrawal; or
17 whether proper and adequate notice of the hearing has been
18 given.

19 If you are not prepared to go forward with the
20 case today, or if you believe that the Board should not
21 proceed, now is the time to raise such a matter.

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

23 SECRETARY MOY: Good morning Mr. Chairman, members
24 of the Board. I do have a brief announcement regarding cases
25 on today's docket, or rather not on today's docket.

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1 First is Application No.19674 of Kimberly Zigler,
2 has been postponed and rescheduled to February 21, 2018.

3 And the second case application is No. 19687 of
4 DC Jewish Community Center, rescheduled to February 28th,
5 2018 or rather -- yes, let's keep it at that.

6 If there are any other preliminary matters, staff
7 would suggest that the Board address those when I call the
8 case.

9 CHAIRPERSON HILL: Okay, great. Thank you. If
10 anyone is here wishing to testify, if you wouldn't mind
11 please standing and take the oath which is going to be
12 administered by the Secretary to my left.

13 SECRETARY MOY: Good morning and Happy Valentine's
14 Day. Do you solemnly swear or affirm that the testimony that
15 you're about to present in this proceeding is the truth, the
16 whole truth and nothing but the truth.

17 (Witnesses sworn.)

18 Ladies and gentlemen, you may consider yourselves
19 under oath.

20 CHAIRPERSON HILL: Is Valentine's Day a real
21 holiday? You don't get the day off.

22 Let's see, okay, so we are going to follow the
23 agenda the way that it was in the bin as you came walking in
24 the door. I kind of rushed through it a little bit, but
25 Lorna John has joined us and thank you very much for joining

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1 us. We hope that you enjoy your time here and thank you for
2 serving the city.

3 MEMBER JOHN: Thank you, Mr. Chairman.

4 CHAIRMAN HILL: And let's see, after that I guess
5 we can start our first hearing case.

6 Whenever you're ready, Mr. Moy. I'm sorry, meeting
7 case.

8 SECRETARY MOY: Okay, thank you, Mr. Chairman.
9 That would be -- this is a decision making for Case
10 Application No. 19635 of HJB Properties, LLC, as amended for
11 special exception relief from the residential building
12 conversion requirements of Subtitle U, Section 320.2 which
13 would construct a rear addition to an existing one family
14 dwelling and convert it to a three unit apartment house in
15 an RF-1 zone at premises 1121 Morse Street, N.E., Square
16 4070, Lot 138.

17 Participating on this decision is the Chair, the
18 Vice Chair, Ms. White, and Mr. Hood.

19 CHAIRMAN HILL: Okay, great. Thank you. Are we
20 ready to deliberate?

21 So I can go ahead and start. It wasn't -- it was
22 pretty difficult -- I shouldn't say difficult. There was a
23 lot of thinking that I had in terms of this case.

24 We heard a lot of testimony in terms of whether
25 or not this relief qualified in order to be granted. And

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1 there's a lot of people in opposition to this project. The
2 Office of Planning, I thought, did provide a good analysis
3 in terms of why they thought that the project had met the
4 criteria. The ANC 5D was in denial and listed why they
5 thought that it shouldn't be approved.

6 I thought that again, the Applicant supplied the
7 information requested. We asked for a letter indicating that
8 they might consider raising the property, after the hearing,
9 this is, and we also got some -- I was curious as to what the
10 matter of right options were and we got some design as to
11 what they thought they might do in terms of the matter of
12 right if this weren't approved.

13 The extension was beyond -- the big, I think,
14 issue that the community had was again going beyond the ten
15 feet by right in terms of building past that amount. The
16 proposed addition, and whether or not the proposed addition
17 was going to create an undue impact was really kind of where
18 I was constantly struggling with the property or the project.

19 I guess -- and again, I think it is -- where I
20 kind of kept going back to is again the regulations as to
21 whether or not I thought that this was unduly affecting the
22 -- this project was unduly affecting the neighborhood, the
23 community, and also then the properties surrounding this
24 project. The property to -- if you're facing the front door,
25 the property to the left was done before the regulations

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1 changed and therefore went back 50 feet.

2 The property to the right of the potential
3 development was in favor of this application, so I was kind
4 of weighing whether or not I thought that they were unduly
5 impacted.

6 There were shadow studies that were provided in
7 terms of the light that I thought -- and I didn't think that
8 necessarily the property to the right of that property
9 meaning as you kind of went down the block, I didn't think
10 that the light and air was being affected by this property
11 so much because there was something to the left of this that
12 had gone back 50 feet that was done before the regulation was
13 changed.

14 And I think we're going to have a lot of
15 discussion for this. I'm just kind of starting my thoughts
16 and we can kind of go back and forth in terms of, I'd like
17 to hear what my colleagues have to say.

18 For me again, it's kind of like we look at these
19 obviously on a case-by-case, individual basis and whether or
20 not I liked the development or whether I thought that the
21 development -- I mean, me personally, if I was next door to
22 this I don't know if I would necessarily want this to happen,
23 but this is a special exception that's in the regulations and
24 there are criteria that we use to determine whether or not
25 the relief should be requested through the special exception.

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1 And due to the fact that the property to the left was already
2 going back 50 feet and that the neighbor to the right was in
3 support, I again started to look at the rest of the block and
4 I didn't see that there was an undue impact for this property
5 considering the unique factors to this property.

6 I think that the fact that I was again interested
7 in the matter of right and so they, the property owner, could
8 then remove the front of the building so that it would have
9 like -- it would look like balconies on the front and so
10 that, to me, was going to change the character more of that
11 block. But again, that is what they would be able to do as
12 kind of matter of right.

13 In terms of -- yes, so I'll leave it right there.
14 So basically, I'm in favor of this. I think that it meets
15 the standard in which we can grant it, based upon again the
16 criteria and as far as the undue impact, I didn't think that
17 it was necessarily impacting, substantially impacting or
18 adverse impact to the area there.

19 So I'll start there. Who would like to go next?
20 Ms. White?

21 MEMBER WHITE: I will try to give my thoughts.
22 Essentially, this is a one-family dwelling and they're trying
23 to convert -- the Applicant is trying to convert it to a
24 three-unit apartment house in an RF-1 zone. This is the
25 Trinidad neighborhood. It's at the premises 1121 Morse

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1 Street.

2 So I reviewed the record, including the
3 transcripts. There are a number of facts that I considered.
4 I reviewed the submission of ANC 5D that voted 5-0-0 in
5 opposition to the application. And I also reviewed the
6 Office of Planning's most recent supplemental report, the
7 Applicant's supplemental filings. There were a lot of
8 filings back and forth.

9 And since the hearing of January 17th, the
10 Applicant submitted, as the Chair indicated, matter of right
11 options and I think I may have been one of the ones that was
12 asking about that in terms of what that would look like. And
13 if they pursued that, they would basically raise the entire
14 building possibly and develop a different structure that
15 would potentially have a different look and feel and a
16 different facade.

17 So, I also looked at the shadow studies as well
18 as the letters in support. And also, there were a number of
19 -- information that was submitted in opposition. I think
20 originally even one of the adjacent owners had -- was in
21 opposition, then kind of changed their position on it. This
22 is the adjacent neighbor at 1119 Morse Street, N.E., David
23 and Geraldine Hailes, who previously opposed the project and
24 then requested party status in opposition, and later
25 submitted a letter of support for the project.

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1 The BZA can approve a waiver of the 10-foot rule
2 under Subtitle U 320.2 provided it doesn't conflict with the
3 Subtitle U 320.2(i) under special exception criteria for
4 residential conversion which in this case is a conversion of
5 a family residential building to a three unit apartment
6 house.

7 Since the hearing of January 17th, the Applicant
8 no longer is requesting height relief which originally was
9 40 feet, so there was some -- they did make some
10 accommodation with respect to the height, so I don't even
11 think the height relief was even requested in this particular
12 case.

13 But before the changes in the regulation, the
14 property that abuts the Applicant's property had a 50 foot
15 rear yard extension, 50 feet rear yard extension, which was
16 prior to the regulation which is a pretty substantial
17 addition.

18 The rear addition part of this case was the most
19 difficult part of it for me where the Applicant wants to add
20 32 feet addition in the rear, waiving the 10-foot rule. So
21 to me, I struggled with that part of it because I considered
22 that to be fairly substantial in spite of the fact that you
23 had a property next door to it that had done a substantial
24 rear addition prior to the regulation change.

25 So under this provision, the BZA can approve a

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1 waiver of the 10-foot rule provided that the waiver will not
2 create any conflict with Subtitle U 320.2(i). That is, the
3 addition must not have a substantial adverse effect on the
4 use or enjoyment of any of the abutting or adjacent property.
5 In particular, the light and air available to the neighboring
6 property should not be unduly affected. And there was some
7 impact. I struggled with the whole issue of whether or not
8 it was unduly affecting the neighbor next door.

9 And also that the second test is the privacy of
10 the use and enjoyment of the neighboring property should not
11 be unduly compromised. And three, the conversion and any
12 associated additions as viewed from the street, alley, or
13 other public way shall not substantially visually intrude
14 under the character, scale, and pattern of houses along the
15 subject street or alley. That part I struggled with quite
16 a bit.

17 So I gave a lot of weight to the ANC, ANC's
18 position, excluding their position that they took on the
19 height because that's no longer something that we're having
20 to consider at this particular meeting. But 32 feet beyond
21 the rear wall was from my perspective kind of out of
22 character for that block. The 32 rear addition seemed kind
23 of extreme to me in spite of the fact that the abutting
24 neighbor was okay with it. And you know, finally, under
25 Subtitle X 901, under the general special exception criteria,

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1 I struggled with how this rear addition would adversely
2 affect the use of the neighboring property in accordance with
3 the zoning regulations and zoning maps and in harmony with
4 the general purpose of the zoning regs and the maps.

5 So I looked at the look and feel of the Trinidad
6 neighborhood. It's very unique and I think to a large
7 extent, they're trying to preserve the character of the
8 single-family homes there. It's a fairly tight-knit
9 community. So for me, I struggled with granting relief for
10 32 feet. So right now where I am is that I'm not supporting
11 it.

12 CHAIRMAN HILL: Okay, great. Well, thanks, Ms.
13 White, I thought --

14 MEMBER WHITE: That was a little long-winded, I
15 apologize.

16 CHAIRMAN HILL: No, I think this is a very --
17 these things have been a struggle for us. I don't think it's
18 an easy decision for any of us, so I thought that was very
19 well said. Thank you so much.

20 Mr. Hart and Mr. Hood? Mr. Hart has his light on,
21 so we'll go there first. Okay.

22 VICE CHAIRPERSON HART: Got the light on, do I?
23 Thank you, Mr. Chairman and Board Member White.

24 So in looking at this case, we are to, of course,
25 look at the zoning regulations and Board Member White

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1 described the section that we were looking in, Subtitle U
2 320.2 and in particular, 320.2(i) which is how we get to
3 allowing the waiver of the 10-foot rule.

4 And there are three criteria that have to do with
5 the light and air available to neighbor and property shall
6 not be unduly affected. The privacy and use and enjoyment
7 of neighboring properties shall not be unduly compromised.
8 And three, the conversion in any associated additions as
9 viewed from the street, alley, or in other public way shall
10 not substantially visually intrude upon the character, scale,
11 and pattern of houses along the subject street or alley.

12 And in that, the way that I have looked at this
13 and after reviewing the record, I actually look at it as the
14 Office of Planning has looked at it in their report. Their
15 report is to -- it's for the -- their recommendation is to
16 approve the application and I find that the Applicant has
17 provided sufficient information for me to understand what it
18 is that they are proposing, how it might impact the neighbors
19 from looking both from the street and from the rear, and my
20 conclusion is that I do not believe that it is a substantial
21 -- or I should say unduly affect the neighbors.

22 There are already, as the other -- my fellow board
23 members have described two projects that are next door. I
24 should say there's one next door and then one project next
25 door to that, that actually extend farther than what is being

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1 proposed here. I think that the zoning regulations actually
2 provide us with the ability to look at each case individually
3 and to describe -- and to identify whether or not a
4 particular project meets or does not meet the regulations as
5 provided.

6 And I understand that even we as the Board can
7 have differing opinions on how the regulations are written
8 and in this case, I think the unduly affected part of it
9 makes it a little bit more difficult for each of us to figure
10 out what that actually means in each case and how we perceive
11 and how we think about those.

12 In this case, the project -- it is situated on the
13 site and it is a southern-facing project and I think that
14 that is important because it does provide a little bit more
15 sun than if it were a northern-facing rear yard in which case
16 the shadows would actually be thrown away from the house and
17 towards the rear yards of other adjacent properties and could
18 be more impactful just because of the orientation of that
19 particular house and property.

20 And so in looking at that and looking at the sun
21 studies that were provided by the Applicant that showed --
22 in Exhibit 61, that showed -- this was the Applicant's
23 presentation that they submitted to us, it shows how the
24 project would be impactful to the neighbors and what was
25 actually the impact of the existing condition, not even

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1 looking at any shadows' impacts from this particular project,
2 but you know, what's there now. And in that comparison I
3 don't believe that that is a significant and a -- it would
4 be unduly impacting, affecting the neighbors. And I know
5 that my other board members may disagree with me and I can
6 understand that.

7 I understand that the ANC did vote against this
8 particular proposal, but I think that it's interesting to
9 look at the opposition to this because the ANC has said that
10 they would be supportive of a ten foot or less, basically a
11 matter of right application, but anything beyond that is just
12 not something that they would be supportive of. And I think
13 that that may be a difficult place to be because the zoning
14 regulations allow for a project to be further than the ten-
15 foot distance. And to not allow anything beyond that makes
16 it really hard to -- if we were to take the ANC's report into
17 consideration, which we do, then we should not be allowing
18 anything beyond ten feet and that just seems a little bit too
19 black and white, too distinct. And I think that this is
20 something that needs to have a discussion. The zoning
21 regulations included this kind of -- the zoning regulations
22 have this information so that there is dialogue between the
23 property owner and the surrounding community.

24 And again, I understand that folks can have
25 differing opinions on it. I believe in this case that the

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1 Applicant has provided sufficient information for me to be
2 able to support it and that's all I have to say.

3 CHAIRMAN HILL: Okay, great. Thank you, Mr. Hart.
4 Mr. Hood?

5 ZC CHAIR HOOD: Mr. Chairman, first of all, I
6 appreciate all the comments that I've heard from my
7 colleagues. I especially appreciate the comments I heard from
8 Board Member White.

9 At first, I had a hard, fast rule having been the
10 one who helped articulate the rule and the regulation and we
11 put this in place, the Zoning Commission put this in place
12 for a reason.

13 We heard from citizens, not even in this
14 neighborhood, but across the city. As you know, the whole
15 thing about pop-ups, pop-arounds, pop-backs, pop-downs,
16 whatever pop -- whatever kind of pop you were trying to pop.
17 And we need to try to get some kind of control, because what
18 it was doing was changing the characters of the neighborhood.

19 And I think in this case, while I understand about
20 what was going on next door, and what happened next door
21 before the regulations were put in place, there was a
22 regulation put in place. And the way I see it going, if we
23 were to continue not to -- a special exception sometimes is
24 a little easier to get than a variance, as we all know. And
25 if we continue -- I fought with whether or not I was going

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1 to go with the special exception in this case, but then I
2 found myself --- if I approve this one, with the amount of
3 relief they were asking, the amount of setback they were
4 asking for in the rear yard to go beyond the ten feet, I
5 don't see how you turn any of them down. And I just think
6 there needs to be more to it.

7 I've already mentioned to the Zoning Commission,
8 not necessarily in particular for this case, but other cases,
9 and I think just think that -- and I'll admit maybe myself,
10 maybe we put you all in a bad situation, but I think this
11 needs to stay to the letter of the law. And I think it does,
12 where it says a conversion of any associated addition as
13 viewed from the street, alley, or other public ways shall not
14 substantially visually intrude upon the character.

15 People in this city are trying to preserve the
16 characters of their neighborhood. That's how we got to the
17 pop-up rule. That's how we got to the pop-back rule and pop-
18 around. They call it so many pops, I've gotten confused.
19 But I can just tell you that while I'm not articulating as
20 well as Board Member White, I agree with having put the rule
21 in place, I'm grappling with who are the -- if we're going --
22 special exceptions -- why did we put the rule in place? Why
23 is the rule even there?

24 So I am not supportive of this application. I,
25 too, would like to fine tune it. I think there's some other

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1 things that can mitigated. I need to discuss that with my
2 colleagues, but where this stands today, I'm going to stick
3 to what the regulations -- and I think this is asking for a
4 little too much. So I will not be supporting this for that
5 very reason.

6 And I've heard, we've had many hours of hearings
7 on this subject from residents of the city. This is not a
8 popularity contest. What it is, is trying to balance people
9 who have fought and tried to preserve their neighborhoods,
10 preserve the character of their neighborhoods and that's
11 where I am. I don't know what else I can add to that, but
12 right now that's where I am, Mr. Chairman.

13 CHAIRMAN HILL: Okay. Thank you, Chairman Hood.
14 I suppose just in having a little bit of discussion, Chairman
15 Hood, I'm kind of -- since you are representing the Zoning
16 Commission and have gone through this. I guess the part that
17 I'm just -- we're currently at an impasse here. We're at 2-
18 2. But I'm just kind of continuing to hear from my
19 colleagues in terms of discussion.

20 Again, I find it that as again, we as the BZA who
21 are trying to interpret things that come from the Zoning
22 Commission, as a special exception where I was struggling
23 with it is again like in this particular case was there undue
24 or adverse impact to light and air, privacy. The character,
25 scale, and pattern of houses along the street or alley, that

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1 also could be an argument. I guess what I kind of got stuck
2 with for me was just again this one particular case in terms
3 of next door there was one that went all the way back
4 already, and the light.

5 And I guess what I'm just trying to say is that
6 whether or not I like it or not, I'm kind of trying to
7 struggle with what was put in front of me in terms of the
8 light and air. I'm just telling you where I kind of am or
9 how I got here. And it would be if there were like the hard,
10 fast rule that the Zoning Commission had put down to us, then
11 we wouldn't be here struggling with this, you know, because
12 sometimes we've been here -- I've seen these enough now that
13 sometimes they're ten feet more than the ten feet. Sometimes
14 they're 15, they're 25, 30. It's so -- there isn't a number.

15 And so from what we've heard from people also and
16 I remember one particular testimony that we took from someone
17 where they were like, it seemed that it was odd that okay,
18 so if you get your two neighbors next door to you and they
19 agree, then you seem to be able to get it. You know, like
20 I didn't think that was -- I just remember that testimony,
21 that I thought that that wasn't necessarily also the way to
22 look at these.

23 I guess I don't really necessarily have a point
24 because I still am kind of here. I'm now struggling more
25 with this, I suppose, after hearing you and Ms. White's

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1 testimony and also thankfully the testimony -- the
2 clarification from Mr. Hart.

3 I guess, you know, what I would suggest we do and
4 Mr. Moy, I know this has happened a few times now, is maybe
5 we'll -- I guess take a look at this again, have to come back
6 because we're tied right now and I would like to have further
7 discussions, I suppose, you know, the next time we could
8 maybe come back and take a look and listen to -- or we can
9 keep talking, what our colleagues have said and see if that
10 changes our mind or not.

11 It's interesting. Board Member John, when I first
12 came here, I just have to let you know, my first day two and
13 a half years ago, it was immediately a deadlocked hearing and
14 so you know, I would ask you to read in to this case and I'd
15 like you to have enough time to read in and have some
16 questions that you might have with Office of the Attorney
17 General and just feel comfortable with things.

18 I also don't necessarily just want to put it on
19 you. I just want to take some time to go back and look at
20 it again myself and I'll open it up to the Board if that
21 sounds like a good plan, we'll come back and maybe think
22 about what was said from any of our colleagues and see if
23 that moves any of our minds and come back again to try to get
24 to a decision, unless, Mr. Hart, you think you were changing
25 or Ms. White, you have anything to add in terms of where your

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1 positions are.

2 MEMBER WHITE: Right now, I'm pretty firm with my
3 position.

4 VICE CHAIRPERSON HART: I mean I would like to
5 think about this a little bit longer. And I understand the
6 point that Commissioner Hood raised about this. And I do get
7 that. I think that understanding what the impacts along the
8 alley are, I think that's what you're bringing up, that
9 concern.

10 I'm not going to put you on the spot because --
11 well, it's around -- because the adjacent neighbor has a
12 building that is already significantly past what this
13 particular proposal is, at some point we have to get to well,
14 what is it between 10 and 30 is -- are we looking at 20,
15 again, I don't know what that answer is. And frankly, since
16 it's actually not written in the regulations, we don't have
17 the ability to add something like that. At least the BZA
18 does not have that ability.

19 The Zoning Commission, on the other hand, they
20 could look at this and maybe at some time in the future that
21 you all might, but I just find that the issues that we have
22 to kind of grapple with are, there are setbacks from the
23 rear. There are setbacks from alleys in some cases. There
24 are setbacks that kind of give the buildable area for each
25 of the -- each property. There are permeable, you know,

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1 space requirements. There are green area ratios. There are
2 a number of things that can limit -- and they're already
3 included in the Zoning Regulations that limit the developable
4 area.

5 And in this case, the Applicant has looked at --
6 the application is within all of those things and the only
7 thing they are looking for -- I shouldn't say only, the one
8 thing they're looking for is this waiver from the ten-foot
9 rule. Well, and also, the waiver to allow a conversion from
10 an existing building, a single-unit building to three units.

11 I guess, I'm thinking about the physical
12 dimensions. If we are looking at pushing the property owners
13 to a particular point, I think we have to be somewhat clear
14 as to what point that is and right now, I'm just not sure
15 what that is. And again, it's not necessarily just Chairman
16 Hood, your particular view on this. I think all of us have
17 to kind of grapple with that as we move forward with these
18 applications.

19 I mean I'm definitely still willing to look at
20 this and think about this. I've heard your testimony,
21 Chairman Hood, as well as Board Member White, and you make
22 some compelling arguments, and I might be able to change my
23 mind on it. But at this point, I just need some more time
24 to think through that. Thank you.

25 ZC CHAIR HOOD: Mr. Chairman, I really think that

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1 -- and I've already, not just this case, but other cases,
2 I've already asked the Office of Planning, let's re-look at
3 this. I did that at one of our meetings previously because
4 Vice Chair Hart is exactly correct. We need to figure out
5 how -- again, for me, and that's putting a lot on the BZA,
6 if the cases keep coming as special exception, adverse
7 impact, even if we are going to look at the next door
8 neighbor, even though the next door neighbor has it, we're
9 not supposed to look at it. We take the merits of this case
10 and this case only.

11 That next door neighbor -- it reminds of the solid
12 waste handling facility regulations that the Zoning
13 Commission put in place in 1998. All these waste, trash
14 transfer stations are around the city. We --- the city was
15 catching up to what was going on in industry and we had to
16 put those -- well, I just coming on then and those
17 regulations were put in place. Actually, that's how I got
18 on the Zoning Commission, fighting against something in my
19 neighborhood like that. But I can tell you that we just need
20 to probably fine-tune this.

21 And I've already talked to some of my colleagues,
22 not just on this case, but in general, with the special
23 exception. I just don't see how you all are going to turn
24 down any special exception going back, especially when the
25 higher rule says not beyond ten feet. Because this person

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1 will ask for it, the next person, but it goes back to what
2 I said about the character, of seeing the character from the
3 alley. The city asked for this and that's what the Zoning
4 Commission put in place, but it makes it harder, I think, as
5 the Vice Chair said, that we need to -- I think anything
6 beyond a certain point should be a variance. And those
7 discussions have probably been floating out there, but I hate
8 to penalize this person because, you know, at some point in
9 time we've got to try to find the right mix.

10 And again, people are trying to preserve the
11 character of their neighborhoods and not trying to make them
12 out of scale. And then we look at other jurisdictions. Are
13 other jurisdictions doing this? I know they don't do this
14 in some of these other jurisdictions in cities.

15 So I just think that we need to fine-tune it and
16 get it right and right now we have a regulation in place and
17 I just don't see putting a regulation in place and then two
18 weeks later, waiving it. That's just where I am.

19 So if you need additional time to think about it,
20 and I'll think about it as well. I'm not going to be closed
21 to it. So I'll do likewise.

22 CHAIRMAN HILL: Okay. All right, well, to join
23 in with the think about it, I'm also going to think about it.
24 And so I guess I'm trying to figure out when is a good time
25 to do this again.

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1 So to allow time for Board Member John to read in,
2 that would take a little bit of time. And I think that --
3 I'm trying to think what we might do.

4 Mr. Moy?

5 SECRETARY MOY: Yes, if I may weigh in on this
6 point, Mr. Chair? If Board Member John would need two weeks
7 to review the case record, that would take the Board to
8 February 28th. If she needs three weeks, that takes us to
9 March 7th.

10 MEMBER JOHN: Mr. Moy, two weeks will be fine.

11 CHAIRMAN HILL: Two weeks will be fine. All
12 right, so we can put this back on decision for the 28th. But
13 we might put the decision at the end of the day. Actually,
14 now that I think about that, Chairman Hood, you and I are
15 going to be at another hearing.

16 ZC CHAIR HOOD: We'll be in the hot seat, yes, the
17 28th.

18 MEMBER JOHN: I might be in a board meeting that
19 morning.

20 CHAIRMAN HILL: I see, all right. Let me think.
21 So let's do it -- I guess I just don't want to -- I'm kind
22 of just not -- I don't want to delay this for the Applicant
23 one way or the other, I suppose, but I guess let's go ahead
24 and do three weeks.

25 SECRETARY MOY: Okay, so that's March 7th.

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1 CHAIRMAN HILL: March 7th. Okay, March 7th for
2 decision.

3 Chairman Hood, can you come back for that?

4 ZC CHAIR HOOD: Can we do it in the morning?

5 CHAIRMAN HILL: Certainly.

6 ZC CHAIR HOOD: Okay.

7 SECRETARY MOY: It will be the first case of the
8 day.

9 CHAIRMAN HILL: And actually, we're going to take
10 just a quick three minutes. Sorry, guys.

11 (Whereupon, the above-entitled matter went off the
12 record at 10:27 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: DC BZA

Date: 02-14-18

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.



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