

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

JUNE 6, 2018

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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 9:41 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

CRYSTAL MYERS  
BRANDICE ELLIOTT  
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the  
Public Meeting held on Wednesday, June 6, 2018.

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

9:41 a.m.

CHAIRPERSON HILL: Okay, please come to order.

We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, NW. This is the June 6th, 2018, public hearing of the Board of Zoning Adjustment for the District of Columbia. My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice Chair, Lesyllee White and Lorna John, Board Members, and representing the Zoning Commission is Robert Miller.

Copies of today's hearing agenda are available to you and are located on 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 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, please turn the microphone off so that your microphone is no longer picking up sound or background noise.

All persons planning to testify either in favor or in opposition must have raised their hand and been sworn in by the secretary. Also, each witness must fill out two witness cards. These cards are located on the table near the door and on the witness table. Upon coming forward to speak

1 to the Board, please give both cards to the reporter sitting  
2 to the table at my right.

3           If you wish to file written testimony or addition  
4 supporting documents today, please submit one original and  
5 12 copies to the secretary for distribution. If you do not  
6 have the requisite number of copies, you can reproduce copies  
7 on an office printer in the Office of Zoning, located across  
8 the hall. Please remember to collate your sets of copies.

9           The order in which we will be hearing special  
10 exceptions, variances, and appeals in terms of how we get  
11 through the process is also listed as you walk in through the  
12 hall. The record shall be closed at the conclusion of each  
13 case, except for any materials specifically requested by the  
14 Board. The Board and the staff will specify at the end of  
15 the hearing exactly what is expected and the date when the  
16 persons must present the evidence to the Office of Zoning.

17           After the record is closed, no other information  
18 shall be accepted by the Board. The District of Columbia  
19 Administrative Procedures Act requires that a public hearing  
20 on each case be held in the open, before the public, pursuant  
21 to Section 405(b) and 406 of that act. The Board may,  
22 consistent with its rules of procedure and the act, enter  
23 into a closed meeting on a case for purposes of seeking legal  
24 counsel on a case, pursuant to D.C. Official Code Section 2-  
25 575(b)4 and/or deliberating on a case, pursuant to D.C.

1 Official Code Section 2-575(b)13, but only after providing  
2 the necessary public notice, or in the case of an emergency,  
3 closed meeting after taking a roll-call vote.

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

10 Preliminary matters are those which relate to  
11 other cases will and should be heard today, such as requests  
12 for postponement, continuance, or withdrawal, or whether the  
13 proper adequate notice of the hearing has been given. If  
14 you're not prepared to go forward with a case, or you believe  
15 the Board should not proceed, now is the time to raise such  
16 a matter.

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

18 MR. MOY: Good morning, Mr. Chair and members of  
19 the Board. Very quickly, as to today's docket for the  
20 record, Application No. 19751 of MED Developers, LLC, has  
21 been postponed and rescheduled to June 27th, 2018. And Case  
22 No. 19757 of 1201 Staples, LLC, postponed and rescheduled to  
23 July 11, 2018. That's it from the staff, Mr. Chair.

24 CHAIRPERSON HILL: Okay, great. Thank you, Mr.  
25 Moy. Welcome back, Mr. Moy.

1 MR. MOY: Thank you, good to be back.

2 CHAIRPERSON HILL: If anyone is here wishing to  
3 testify, if you wouldn't mind standing and taking the oath  
4 administered by the secretary to my left.

5 MR. MOY: Good morning. Do you solemnly swear or  
6 affirm that the testimony you're about to present in this  
7 proceeding is the truth, the whole truth, and nothing but the  
8 truth?

9 (Witnesses sworn.)

10 MR. MOY: Ladies and gentlemen, you may consider  
11 yourselves under oath.

12 CHAIRPERSON HILL: Okay, just so everyone knows,  
13 the agenda that you picked up as you walked in the door,  
14 we're just following it. So, there's nothing, in terms of  
15 the order, that needs to be changed. So, Mr. Moy, whenever  
16 you're ready, you can please call our first meeting case.

17 MR. MOY: Thank you, Mr. Chairman. The one case  
18 application before the Board for decision-making is  
19 Application No. 19621A of Richard Hilton. This is the  
20 applicant's request for a minor modification to plans  
21 approved by the BZA Order No. 19621 to construct a fourth-  
22 story rear addition to an existing principal dwelling unit  
23 in R-1-B zone. This premises is at 2318 California Street,  
24 NW, Square 2519, Lot 284.

25 CHAIRPERSON HILL: Okay, great. Thank you, Mr.

1 Moy. Is the Board ready to deliberate? Okay, I can start.

2 I guess, after looking through the record, the  
3 only thing -- or, one of the items that I was on the fence  
4 about, a little bit, was whether or not this was a minor  
5 modification, a modification of consequence, or a  
6 modification of significance. Both for a minor modification  
7 and a modification of consequence, we can decide upon this  
8 based upon the record. However, a modification of  
9 significance, we would have to have a hearing.

10 After reading through the Office of Planning's  
11 report, I would think that this is more a modification of  
12 consequence, rather than a minor modification, and it would  
13 be something that, again, we would be able to decide on today  
14 based on the record. Those are my first thoughts, just to  
15 share with the Board.

16 Next, I guess after reading the record and the  
17 Office of Planning's report, I believe that their analysis,  
18 the Office of Planning, is well-founded, and I would agree  
19 with their analysis in terms of this application.

20 Also, we did not get something directly from the  
21 ANC on this. However, they did submit a letter to HPRB that  
22 they were not listing any issues or concerns. So although  
23 that wasn't directly to us, it does make me have a little bit  
24 more confidence in this being a modification of consequence  
25 that we could rule on today, as well as the fact that that

1 ANC is a pretty active ANC. So I think that if they had had  
2 any issues with this, they would have been notified and had  
3 30 days to bring anything before us.

4 So I would be in favor of this application. Is  
5 there anyone else who would like to say something?

6 VICE CHAIRPERSON HART: Yes, Mr. Chairman, only  
7 that I would agree that this is definitely not a minor  
8 modification. I could understand it being a modification of  
9 consequence and do feel comfortable moving forward with the  
10 project.

11 Regarding the project itself, I did not have any  
12 issues with the modifications as proposed. I thought that  
13 they were still within the building -- while they were making  
14 an expansion of the building, it still was within the  
15 existing footprint of the building, and I didn't really have  
16 any particular issues with that. So I'd be in support of it  
17 as well and do cite the Office of Planning report, and that's  
18 it.

19 MEMBER JOHN: Mr. Chair, I would concur with your  
20 assessment, as well as the assessment of Vice Chair Hart.  
21 I definitely did not believe it was a minor modification, and  
22 I was trying to look through the various regulations covering  
23 the modifications of significance versus consequence. Also,  
24 in looking at the Office of Planning's report, I did not  
25 think that the application included any significant, new, or

1 expanded relief that would require a full-blown hearing on  
2 it. So I would support it being a modification of  
3 consequence.

4 ZC VICE CHAIRPERSON MILLER: Thank you. I would  
5 concur with my colleagues and with everything that they've  
6 said. And I think the ANC 2D letter to the HPRB supporting  
7 the extended roof addition and enclosure of the third-floor  
8 deck was critical. If we didn't have that ANC letter in the  
9 record, even though it's not to us, I would say we should  
10 have a public hearing on it, but I'm comfortable with moving  
11 forward.

12 MEMBER JOHN: Mr. Chairman, I did not participate  
13 on the original order, so I would not participate in this.

14 CHAIRPERSON HILL: Okay, great. Thank you. All  
15 right, so with that, I'll go ahead and make a motion to  
16 approve Application No. 19621A, as captioned and read by the  
17 secretary and ask for a second.

18 MEMBER WHITE: Second.

19 CHAIRPERSON HILL: Motion made and seconded. All  
20 those in favor, aye.

21 (Chorus of aye.)

22 CHAIRPERSON HILL: All those opposed? Motion  
23 passes. Mr. Moy?

24 MR. MOY: Staff would record the vote as four to  
25 zero to one. This on the motion of Chairman Hill to approve

1 the application as a modification of consequence; second the  
2 motion, Ms. White. Also in support, Mr. Rob Miller and Vice  
3 Chair Hart. Ms. John is not participating, not voting. The  
4 motion carries.

5 CHAIRPERSON HILL: Thank you. Summary order, Mr.  
6 Moy?

7 MR. MOY: Thank you, sir.

8 (Whereupon, the above-entitled matter went off  
9 the record at 9:51 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: 06-06-18

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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Court Reporter

**NEAL R. GROSS**

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