

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

WEDNESDAY

JUNE 27, 2018

+ + + + +

The Regular Public Hearing 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., Carlton Hart, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARLTON HART, Vice Chairperson  
LESYLLEE M. WHITE, Board Member  
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice Chair

OFFICE OF ZONING STAFF PRESENT:

TRACEY W. ROSE, Sr. Zoning Specialist  
ALISON MYERS, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS  
JONATHAN KIRSCHENBAUM  
MATT JESICK

The transcript constitutes the minutes from the Public Meeting held on June 27, 2018.

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

9:47 a.m.

VICE CHAIRPERSON HART: The hearing will please come to order. Good morning, ladies and gentlemen. We are located in the Jerrily R. Kress Memorial Hearing Room at 441 Fourth Street N.W. This is the June 27, 2018 public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Carlton Hart, Vice Chairperson. Joining me today are Lesyllee White and Lorna John, Board members, and representing the Zoning Commission is Rob Miller.

Copies of today's hearing -- or agenda are available to you and are located in the wall bin near the door to my left.

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, first stating your name and home address. When you are finished speaking, please turn your microphone off 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 your 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 tables. Upon coming forward to speak  
5 to the Board, please give both the cards to the reporter  
6 sitting at the table to my right.

7           If you wish to file written testimony or  
8 additional supporting documents today, please submit 1  
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 Zoning  
12 located across the hall. Please remember to collate your set  
13 of copies.

14           The order of procedure for special exceptions and  
15 variances pursuant to Subtitle Y 409 are located on the table  
16 at the back of the room. The order of procedure for appeal  
17 applications pursuant to Subtitle Y 507 are also located on  
18 the table in the back.

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

1           The District of Columbia Administrative Procedure  
2 Act requires that the public hearing on each case be held in  
3 the open before the public.

4           Pursuant to Subtitles 405(b) and 406 of that Act,  
5 the Board may, consistent with its rules of procedure and the  
6 Act, enter into a closed meeting on a case for purposes of  
7 seeking legal counsel on a case pursuant to D.C. Official  
8 Code Subtitle 2-575(b)(4) and/or deliberating on a case  
9 pursuant to D.C. Official Code Subtitle 2-575(b)(13) but only  
10 after providing the necessary public notice, and in the case  
11 of an emergency closed meeting, after taking a roll call  
12 vote.

13           The decision of the Board in these contested cases  
14 must be based exclusively on the public record. To avoid any  
15 appearance to the contrary, the Board requests that persons  
16 present not engage the members of the Board in conversation.

17           Please turn off all beepers and cell phones at  
18 this time so as not to disrupt these proceedings.

19           Preliminary matters are those which relate to  
20 whether a case will or should be heard today, such as  
21 requests for postponement, continuance, or withdrawal or  
22 whether proper and adequate notice of the hearing has been  
23 given.

24           If you are not prepared to go forward with the  
25 case today or you believe that the Board should not proceed,

1 now is the time to raise such a matter.

2 Ms. Secretary, do you have any preliminary  
3 matters?

4 MS. ROSE: Good morning, Mr. Vice Chair and  
5 members of the Board. Yes, we have a few preliminary matters  
6 this morning.

7 Application No. 19751 of MED Developers, LLC has  
8 been postponed to the public hearing of September 26, 2018.  
9 Application No. 19763 of Sharon and Cheng Xu has been  
10 postponed to the hearing of July 11, 2018. And Application  
11 No. 19787 of 2604 29th Street, LLC has been postponed to the  
12 public hearing of September 12, 2018. And other preliminary  
13 matters can be addressed when we begin the hearing.

14 VICE CHAIRPERSON HART: Okay. Thank you. And  
15 right now, all individuals wishing to testify today please  
16 rise so that you may take the oath. Ms. Secretary, can you  
17 administer the oath, please?

18 MS. ROSE: Please raise your right hand. Do you  
19 swear or affirm that the testimony you will be presenting  
20 today will be the truth, the whole truth, and nothing but the  
21 truth?

22 (Group response.)

23 MS. ROSE: You may be seated.

24 VICE CHAIRPERSON HART: So, excellent. Thank you  
25 very much. Welcome, everybody. So we have, I guess, the

1 first case on our decision docket is, if you could call that  
2 case, please.

3 MS. ROSE: That would be Application No. 19755 of  
4 Dale Denton and Morgan Washburn, as amended, pursuant to 11  
5 DCMR Subtitle X, Chapter 9, for special exceptions under  
6 Subtitle C, Section 1504 from the penthouse setback  
7 requirements of Subtitle C, Section 1502.1(b) and (c), under  
8 Subtitle E, Sections 5007 and 5201 from the accessory  
9 structure rear setback requirements of Subtitle E, Section  
10 5004.3, and under Subtitle E, Section 5201 from the rear yard  
11 requirements of Subtitle E, Section 306.1, and pursuant to  
12 Subtitle X, Chapter 10 for a variance from the lot occupancy  
13 requirements --

14 (Off mic comments.)

15 MS. ROSE: Please excuse me, under Subtitle E,  
16 Section 5201 from the lot occupancy requirements of Subtitle  
17 E, Section 304.1, and the rear yard requirements of Subtitle  
18 E, Section 306.1 to construct a rear deck and rear roof deck  
19 addition and convert the existing residential care facility  
20 to a flat in the RF-1 Zone at premises 1208 T Street N.W.,  
21 Square 275, Lot 47. This matter is before you for a  
22 decision.

23 VICE CHAIRPERSON HART: Thank you very much, Ms.  
24 Rose. Is the Board ready to deliberate?

25 (Off mic comments.)

1           VICE CHAIRPERSON HART: Excellent. I can start.  
2 First, I'll say that we did have a fairly lengthy public  
3 hearing on this case on June 6th. And at that time, the  
4 Applicant was seeking both special exception relief and  
5 variance relief as part of their application.

6           During the hearing, the Board requested that the  
7 Applicant revise his plan to lower the lot occupancy, which  
8 was the variance request. This was in response to the Office  
9 of Planning report, which was in support of the special  
10 exception relief but was not in support of the variance  
11 relief at that time.

12           Since the June 6th meeting, the Applicant has  
13 worked with the Office of Planning and submitted revised  
14 drawings in Exhibit 46.

15           In addition, the Applicant has submitted a revised  
16 self-certification and a revised burden of proof statement  
17 stating that it amended the relief request to match what they  
18 are seeking now, which the Secretary just read. They're no  
19 longer seeking the lot occupancy variance relief.

20           The Office of Planning submitted its original  
21 report in Exhibit 40, which I noted had supported the special  
22 exception relief but recommended denial of the variance  
23 relief.

24           So, since this time, OP has submitted a  
25 supplemental report in Exhibit 48 and is now in support of

1 the relief, of all of the relief that the Applicant has  
2 requested, as it does not include the variance relief. It's  
3 within the special exception limit, which is I guess 70  
4 percent.

5 All that being said, I wanted to just say I was  
6 in support of the application because the Applicant has  
7 reduced the lot occupancy relief and has proven that they  
8 meet the criteria under Section C 1504.1 and E 5201.3 and the  
9 general exception criteria under Subtitle X 901.

10 I am in agreement with the OP supplemental report  
11 that describes how the Applicant has met the criteria that  
12 is in the zoning regs. And I'd like to hear other Board  
13 members' thoughts on this case.

14 MEMBER WHITE: Okay. So, thank you, Mr. Vice  
15 Chair Hart.

16 So, as you stated, you know, this is a self-  
17 certified application for zoning relief needed for  
18 improvements to an attached building in the RF-1 Zone for a  
19 two-family flat that used to be used for a youth residential  
20 care facility located at 1208 T Street N.W.

21 And as you also stated, after the June 6th  
22 hearing, we requested revised plans from the Applicant to  
23 lower the lot occupancy. And a supplemental OP report was  
24 submitted. And the ANC also submitted additional  
25 communication confirming that they had no issues with the

1 revised plans.

2           So this was good because the Applicant revised his  
3 plans to what is allowed by special exception and amended the  
4 relief requested where, so the variance relief was no longer  
5 needed.

6           OP, as you stated, submitted a supplemental report  
7 recommending approval. And there was also statements  
8 submitted by ANC 1B confirming support of the revised plans.

9           OP, in its supplemental report, noted that the  
10 Applicant reduced the area off of the deck by reducing the  
11 size of the port and decreasing the depth into the rear yard.

12           ANC 1D didn't have any issues or concerns about  
13 the proposal, which, you know, made this application very  
14 tight and because they're, at this point seem to be agreement  
15 for the revised application.

16           So, upon reviewing the revised plans in Exhibit  
17 46, I believe that the Applicant has met the criteria that  
18 they're seeking for lot occupancy under E 304, rear setback  
19 requirements for accessory structure under E 5004.3 and under  
20 E 5201, for rear yard under E 306.1, and under C 1504 from  
21 the penthouse setback requirements of C 1502.1 to allow the  
22 roof deck extending the full width and depth of the existing  
23 lower roof.

24           So, based on the revised plans, I am comfortable  
25 with everything that's been submitted in the record. And I

1 believe I can support the application for special exception  
2 because they've met the criteria for this particular  
3 application.

4 VICE CHAIRPERSON HART: Thank you. Ms. John?

5 MEMBER JOHN: Thank you, Mr. Vice Chair. This is  
6 a request for a special exception relief to construct a rear  
7 deck and a rear roof addition and convert the existing  
8 residential care facility to a flat in the RF-1 Zone.

9 The Applicant seeks relief under Subtitle E,  
10 Section 501 to reduce the 12-foot alley center line  
11 requirement under Subtitle E 5004 to 5 feet, and to reduce  
12 the rear yard requirement of Subtitle E 306 from 20 feet to  
13 19.5 feet, and also to increase the lot occupancy from the  
14 required 60 percent to 70 percent under Subtitle E, Section  
15 304. The Applicant also seeks complete relief from the roof  
16 deck setback of six feet required by Subtitle C 1502.

17 As has been noted earlier by my colleagues, the  
18 Applicant first appeared on June 6th and requested variance  
19 relief from the lot occupancy requirement to allow 74 percent  
20 lot occupancy.

21 The Office of Planning opposed the request for  
22 variance relief because there was no exceptional condition  
23 affecting the property that would support such an increase.

24 Since the hearing, the Applicant has reduced the  
25 deck to meet the 70 percent lot occupancy, which simplified

1 the application and removed some of the barriers to relief.

2 OP has provided a thorough analysis of each relief  
3 requested and specified how the Applicant meets each of the  
4 criteria in the regulations. And I give great weight to that  
5 analysis and the recommendations as amended by the June 20  
6 report, which shows that the deck was reduced to achieve the  
7 70 percent lot occupancy which is allowed by special  
8 exception.

9 OP also noted that the roof deck as redesigned  
10 would be consistent with others along the block. It would  
11 be set back from the front of the building and would not  
12 adversely impact the light and air or the privacy of adjacent  
13 neighbors.

14 The ANC supports this application. And based on  
15 the entire record, I am able to support this request for  
16 relief.

17 VICE CHAIRPERSON HART: Thank you very much, Ms.  
18 John. Mr. Miller?

19 COMMISSIONER MILLER: Thank you, Vice Chair Hart.  
20 I support the revised application and concur with the  
21 comments of my colleagues.

22 VICE CHAIRPERSON HART: Okay. So I guess that I  
23 will make a motion to approve Application No. 19755 of Dale  
24 Denton and Morgan Washburn as read and noted by the  
25 Secretary. Do I have a second?

1 MEMBER WHITE: Second.

2 VICE CHAIRPERSON HART: Hearing a second, all in  
3 favor say aye.

4 (Chorus of aye.)

5 VICE CHAIRPERSON HART: Any opposed? Motion  
6 carries.

7 MS. ROSE: Staff will record the vote as 5 to 0  
8 to 0 to approve the application with a motion by Mr. Hart,  
9 seconded by Ms. White. In support of the motion would be Ms.  
10 John and Mr. Miller. And Mr. Hill has submitted an absentee  
11 ballot in support of the motion as well.

12 VICE CHAIRPERSON HART: Summary order, please.

13 MS. ROSE: Thank you.

14 VICE CHAIRPERSON HART: Thank you.

15 (Whereupon, the above-entitled matter went off the  
16 record at 10:03 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: 06-27-18

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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