

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

OCTOBER 10, 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 9:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

PETER SHAPIRO, District Resident Appointee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

The transcript constitutes the minutes from the Public Meeting held on October 10, 2018.

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

9:37 a.m.

CHAIRPERSON HILL: Good morning, the hearing will please come to order. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street NW.

This is the October 10th public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Fred Hill, chairperson. Joining me today are Carlton Hart, vice chair, Lesyllee White, board member and representing the Zoning Commission is Peter Shapiro.

Copies of today's hearing agenda are available to you and are located in the wall bin near the door. Please be advised 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're 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 or in opposition must have raised their hand and been sworn in by the secretary.

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

6 If you wish to file written testimony or
7 additional supporting documents today please submit 1
8 original and 12 copies to the secretary for distribution.
9 If you do not have the requisite number of copies you can
10 reproduce copies on an office printer in the Office of Zoning
11 located across the hall. Please remember to collate your set
12 of copies.

13 The order of procedures for special exceptions and
14 variances as well as appeals is also listed in a bin as you
15 walk through the door.

16 The record shall be closed at the conclusion of
17 each case except for materials specifically requested by the
18 board. The board and the staff will specify at the end of
19 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
22 shall be accepted by the board.

23 The board's agenda includes cases set for
24 decision. After the board adjourns the Office of Zoning in
25 consultation with myself will determine whether a full or

1 summary order may be issued. A full order is required when
2 the decision it contains is adverse to a party including an
3 affected ANC.

4 A full order may also be needed if the board's
5 decision differs from the Office of Planning's
6 recommendation. Although the board favors the use of summary
7 orders whenever possible an applicant may not request the
8 board to issue such an order.

9 The District of Columbia Administrative Procedures
10 Act requires that the public hearing on each case be held in
11 the open before the public.

12 Pursuant to section 405(b) and 406 of that act the
13 board may consistent with its rule and procedures and the act
14 enter into a closed meeting on a case for purposes of seeking
15 legal counsel on a case pursuant to D.C. Official Code
16 section 2-575(b)(4) and/or deliberating on a case pursuant
17 to D.C. Official Code section 2-575(b)(13) but only providing
18 the necessary public notice and in the case of an emergency
19 closed meeting after taking a roll call vote.

20 The decision of the board in contested cases or
21 in all cases must be based exclusively on the public record.
22 To avoid any appearance to the contrary the board requests
23 that persons present not engage the members of the board in
24 conversation.

25 Please turn off all beepers and cell phones at

1 this time so as not to disrupt the proceedings.

2 Preliminary matters are those which relate to
3 whether a case will or should be heard today such as requests
4 for postponement, continuance, or withdrawal, or whether
5 proper and adequate notice of the hearing has been given.

6 If you're not prepared to go forward with the case
7 today or if you believe that the board should not proceed now
8 is the time to raise such a matter.

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

10 MR. MOY: Good morning, Mr. Chair, members of the
11 board. We have a few but staff would suggest that the board
12 address those matters if any when the case is called.

13 And also I'd like to add since I have the
14 microphone as to today's docket two, well actually three
15 cases will not be heard today.

16 First is case application number 19821 of 1322
17 Randolph Street NW LLC. This has been postponed and
18 rescheduled to October 24, 2018.

19 Case application number 19823 of Wisconsin Avenue
20 Baptist Church postponed and rescheduled to November 14,
21 2018.

22 Finally, yesterday ANC 1C filed correspondence as
23 to withdrawing their appeal. This is ANC 1C BZA appeal of
24 19825. So that is not on the docket. That's it.

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

1 everyone is aware here we are going to follow the agenda
2 that's in the bins as you walk through the door.

3 If there's anyone here who would like to testify
4 to the board if you could please stand and take the oath
5 administered by my secretary to the left.

6 (Whereupon, the witnesses were sworn.)

7 CHAIRPERSON HILL: All right, Mr. Moy. You can
8 start with our first meeting case whenever you like.

9 MR. MOY: All right. The first case application
10 for decision-making by the board. This is case application
11 number 19853 of Lisette, L-I-S-E-T-T-E, Burton. Request for
12 special exception under subtitle D section 5201 from the rear
13 yard requirements subtitle D section 306.2.

14 This would construct a rear deck addition to an
15 existing principal dwelling unit in the R-3 zone at premises
16 1011 Tanner Place SE (square 5912, lot 48).

17 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
18 Moy. Is the board ready to deliberate? Okay, I can start.

19 So this is an expedited review. The applicant
20 provided its burden of proof statement in exhibit 6
21 addressing D 5201.3 through 5201.6 their criteria.

22 The ANC 8E submitted a resolution in support.
23 However, that resolution I guess was dated August 2017 and
24 was based on a vote that took place December 2016.

25 There are letters of support from adjoining

1 neighbors on Tanner and Anderson Streets as well as a variety
2 of other letters of support all dated from December 2016.

3 Even though the ANC resolution and the letters
4 from the neighbors are quite old it does appear that the
5 plans for the deck have not changed at this point and it also
6 appears that the neighbors haven't changed since the approval
7 -- since they had recommended approval.

8 The names of the neighbors within the 200 feet on
9 exhibit 20 page 2 match the names of the neighbors in the
10 letters of support. OP's report in exhibit 36 also
11 recommends approval of relief.

12 So even though this was something that had been
13 proposed quite some time ago I feel that nothing has changed
14 since that time that they came forward with the plans and so
15 I would also agree with the analysis of the Office of
16 Planning as well as all of the other items that I mentioned
17 and be leaning towards support.

18 Does anyone have anything they'd like to add?

19 MEMBER WHITE: Mr. Chair, I concur with your
20 comments. I think the applicant did meet the criteria for
21 the relief that they're seeking and with OP's recommendation
22 I'm comfortable.

23 Also I agree with your comments regarding the time
24 frame for when the application was filed and notice was sent.
25 I don't think based upon my review of the record there have

1 been any significant changes to the applicant's plan since
2 the filing of the original application so I think sufficient
3 notice was provided to the neighbors within 200 feet.

4 VICE CHAIRPERSON HART: Just a minor point. I
5 would also be in support of the application. I believe that
6 the applicant has provided sufficient information to show how
7 they would -- are meeting the criteria.

8 And I also reviewed the Office of Planning report.
9 And in particular there was an aspect, they talk about the
10 lot occupancy that should not be over 40 percent and they're
11 at 33 percent even with this deck. So I just was pointing
12 out as they're still well below the actual allowed maximum
13 lot occupancy. With that I'd be supportive of the
14 application as well.

15 MEMBER SHAPIRO: I concur as well, Mr. Chair.

16 CHAIRPERSON HILL: Okay. I'll go ahead and make
17 a motion to approve application number 19853 as captioned and
18 read by the secretary and ask for a second.

19 VICE CHAIRPERSON HART: Second.

20 CHAIRPERSON HILL: Motion made and seconded. All
21 those in favor say aye.

22 (Chorus of ayes)

23 CHAIRPERSON HILL: The motion passes, Mr. Moy.

24 MR. MOY: Staff would record the vote as 4-0-1.

25 This is on the motion of Chairman Hill to approve the

1 application for the relief requested. Seconding the motion
2 Vice Chair Hart. Also in support Ms. White and Mr. Peter
3 Shapiro. No other board member present. The motion carries.

4 CHAIRPERSON HILL: Thank you, Mr. Moy.

5 (Whereupon, the above-entitled matter went off the
6 record at 9:46 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: 10-10-18

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.



Court Reporter

NEAL R. GROSS

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