

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

MARCH 27, 2001

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The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Robert N. Sockwell, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Chairperson
SHEILA CROSS REID	Vice Chairperson
ANN MOHNKERN RENSHAW	Board Member

COMMISSION STAFF PRESENT:

Beverly Bailey, Office of Zoning  
Paul Hart, Office of Zoning  
John Nyarku, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

ALSO PRESENT:

Gabe Santos, Georgetown University Law School  
Susannah Lipsyte, Georgetown University Law  
School  
Scott Thomasson, Georgetown University Law  
School  
Joe Leventhal, Georgetown University Law School

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

9:40 a.m.

CHAIRPERSON SOCKWELL: Good morning. The hearing will please come to order.

This is the March the 27th public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Robert Sockwell, Chairperson.

Joining me today to my right is the Vice Chairperson Sheila Cross Reid. To my left is Ann Renshaw and that's it.

Copies of today's hearing agenda are available to you. They are located to my left near the door.

All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us. Upon coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right.

The order of procedure for special exceptions and variances is:

1. Statement and witnesses of the applicant;
2. Government reports including Office of Planning, Department of Public Works, et al.
3. Report of the Advisory Neighborhood Commission, the ANC.
4. Parties or persons in support.

1 5. Parties or persons in opposition.

2 6. Closing remarks by the applicant.

3 Cross examination of witnesses is permitted by  
4 the applicant or parties. The ANC within which the property is  
5 located is automatically a party in the case.

6 The record will be closed at the conclusion of  
7 each case except for any material specifically requested by the  
8 Board and Staff will specify at the end of the hearing exactly  
9 what is expected.

10 The Sunshine Act requires that the public hearing  
11 on each case be held in the open before the public. The Board  
12 may consistent with its rules of procedure and the Sunshine Act  
13 enter executive session during or after the public hearing on a  
14 case for purposes of reviewing the record or deliberating on  
15 the case.

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

20 Please turn off all beepers and cell phones or  
21 set them to vibrate at this time so not to disrupt these  
22 proceedings.

23 The Board will now consider any preliminary  
24 matters. Preliminary matters are those which relate to whether  
25 a case will or should be heard today such as requests for

1 postponement, continuance or withdrawal or whether proper and  
2 adequate notice of the hearing has been given. If you are not  
3 prepared to go forward with a case today or if you believe the  
4 Board should not proceed, now is the time to raise such a  
5 matter.

6 Does the Staff have any preliminary matters?

7 MS. BAILEY: Good morning, Mr. Chairman. Staff  
8 does have preliminary matters. There are three cases that are  
9 scheduled for the docket this morning and there is a request  
10 for all three of the cases to be postponed. We can go through  
11 them one by one.

12 The first one is application number 16672,  
13 Feliciz Pyles. There is a request for that application to be  
14 postponed. Additional time is needed by the applicant to  
15 prepare for the hearing.

16 CHAIRPERSON SOCKWELL: Is there a representative  
17 of Feliciz Pyles case here? Are there any persons in support  
18 and opposition parties, et cetera here?

19 Then the question is is it felt that the request  
20 for postponement is justifiable?

21 VICE CHAIRPERSON REID: Mr. Chairperson, I would  
22 move that we grant them a continuance.

23 CHAIRPERSON SOCKWELL: All right. Second for  
24 that?

25 MEMBER RENSHAW: Second.

1 CHAIRPERSON SOCKWELL: Any discussion?

2 MEMBER RENSHAW: To a date certain please.

3 CHAIRPERSON SOCKWELL: All right. Staff, is it  
4 possible to postpone to a date certain? Has the applicant made  
5 any representation to the amount of time necessary?

6 MS. BAILEY: Mr. Chairman, I have not spoken to  
7 the applicant. I'm not sure if Mr. Hart has.

8 Have you, Paul?

9 MR. HART: Excuse me. Prior to this meeting, the  
10 applicant was still unclear as to their time involved in  
11 getting themselves together for the case. So, we have left the  
12 date for them to return open.

13 CHAIRPERSON SOCKWELL: Just for the record, what  
14 were the concerns of the applicant?

15 MR. HART: Mrs. Bailey.

16 MS. BAILEY: If I remember this case correctly,  
17 Mr. Sockwell, this had to do with the applicant has a handicap  
18 and it had to go back to the Zoning Administrator because the  
19 way it was advertized or the way it's advertized, the Board  
20 determined that it was not correctly done and it needed to be  
21 referred back to the ZA for additional information to be  
22 reassessed and my presumption is that assessment has not come  
23 in at this time.

24 CHAIRPERSON SOCKWELL: All right. Thank you very  
25 much.

1                   MEMBER RENSHAW: I'll withdraw the date certain  
2 since it sounds like the applicant needs kind of an open-ended  
3 phase of time.

4                   CHAIRPERSON SOCKWELL: That we reschedule the  
5 case pending more specific information from the applicant or  
6 the Zoning Administrator as the case may be.

7                   All in favor say aye.

8                   BOARD: Aye.

9                   CHAIRPERSON SOCKWELL: Thank you. Record the  
10 vote please.

11                  MS. BAILEY: Staff will record the vote as four  
12 to zero to postpone the application to a date to be determined.

13                  The motion was made by Sheila Cross Reid, seconded by Mrs.  
14 Renshaw, Mr. Sockwell in agreement. Mrs. Susan Morgan Hinton  
15 not present, not voting and that would be three to approve the  
16 postponement to a date certain.

17                  CHAIRPERSON SOCKWELL: Thank you. Next case.

18                  MS. BAILEY: The next case is application number  
19 16631 of Alliance Francaise and there is another request  
20 because of the complexities of this case to postpone it.

21                  If I remember this case correctly, the applicant  
22 was requesting to use an accessory structure at the rear of the  
23 property to house an employee, a staff member. There were some  
24 technical difficulties with this as well and again, it was  
25 referred back to the ZA for more information.

1 CHAIRPERSON SOCKWELL: All right and I recall  
2 that case quite well.

3 Motion for a continuance?

4 MEMBER RENSHAW: I so move.

5 VICE CHAIRPERSON REID: I second.

6 CHAIRPERSON SOCKWELL: All in favor?

7 BOARD: Aye.

8 CHAIRPERSON SOCKWELL: Thank you.

9 MS. BAILEY: Staff will record the vote as three  
10 to one to -- three, zero, one to approve the postponement of  
11 Alliance Francaise. Motion made by Mrs. Renshaw, seconded by  
12 Mrs. Sheila Cross Reid, Mr. Sockwell in agreement, Mrs. Susan  
13 Morgan Hinton not present, not voting.

14 And then the last case, Mr. Chairman, has to do  
15 with The Phillips Collection, application number 16618, and I  
16 believe the applicant was or is coming to the table and perhaps  
17 he can address his request better than I.

18 CHAIRPERSON SOCKWELL: Thank you. Would you turn  
19 your mike? Identify yourself please.

20 MR. CAIN: Good morning, Mr. Chairman and members  
21 of the Board. My name is Michael Cain. I'm the attorney for  
22 The Phillips Collection the petitioner in case number 16618.

23 We have asked for a continuance for the reason  
24 that Mr. Lewis Slade our transportation expert had overlooked a  
25 commitment to appear at a professional transportation

1 conference this week in California when we had in January  
2 rescheduled the case until today and he is quite obviously a  
3 critical element of our presentation and we are just simply  
4 unable to go forward without his help.

5 I have been authorized by counsel for the parties  
6 in opposition to represent their consent to the continuance and  
7 I believe Staff has identified May 22nd as a possible  
8 acceptable date for the continuation of the hearing.

9 CHAIRPERSON SOCKWELL: All right. I do recall  
10 that traffic issues were the principal concern in this case  
11 and without your lead consultant on that it would probably be  
12 unadvisable for you to proceed. I think that as long  
13 as opposition is not against it that we can do that and you  
14 said May what is?

15 MS. BAILEY: The 22nd.

16 CHAIRPERSON SOCKWELL: May 22nd to a date  
17 certain. I would move that this case be postponed to a date  
18 certain May 22nd year 2001.

19 What is that an a.m.?

20 MS. BAILEY: May 22nd Phillips Collection  
21 schedule all day.

22 CHAIRPERSON SOCKWELL: Okay. Then it'll be a.m.,  
23 p.m. Lunchtime, too. All right. Second on that motion?

24 MEMBER RENSHAW: Second.

25 CHAIRPERSON SOCKWELL: Discussion? All in favor.

1 BOARD: Aye.

2 MS. BAILEY: Staff will record the vote

3 as

4 three, zero, one to approve the rescheduling of The Phillips

5 Collection, application number 16618. Motion made by Mr.

6 Sockwell, seconded by Mrs. Renshaw, Mrs. Sheila Cross Reid in

7 agreement, Mrs. Susan Morgan Hinton not present, not voting.

8 MEMBER RENSHAW: Mr. Chairman, I believe on the

9 Phillips case and on the preceding case 16631 we should be

10 recording the vote as three to nothing.

11 CHAIRPERSON SOCKWELL: Yes.

12 MEMBER RENSHAW: If Mrs. Hinton is not here and

13 she did not send in a proxy, her vote would not be reflected as

14 an abstention.

15 MS. SANSONE: Actually, Mrs. Renshaw, the vote

16 should be recorded as three to zero to two. The two being --

17 MEMBER RENSHAW: Why is that?

18 MS. SANSONE: -- Susan Morgan Hinton not present

19 and not voting and the member of the Zoning Commission also

20 being not present, not voting. They're not voting status is

21 reflected in the recordation of the vote. Yes. That is how

22 the vote is being recorded.

23 MS. BAILEY: And who was the Zoning Commissioner

24 for today?

25 MS. SANSONE: Ms. Bailey, I don't believe we need

1 to actually -- I'm not sure we have one designated. It can  
2 simply be recorded as the Zoning Commission member.

3 VICE CHAIRPERSON REID: Did you record Ms. Hinton  
4 as abstained?

5 MS. BAILEY: I recorded her as not present, not  
6 voting.

7 VICE CHAIRPERSON REID: Right. There was not  
8 abstention.

9 MEMBER RENSHAW: No, I was saying that in  
10 meetings that have attended or chair, anytime there is an  
11 abstention it is so recorded, but people who are not there who  
12 do not send in a proxy are not recorded and now, Ms. Sansone  
13 says that here we do this.

14 VICE CHAIRPERSON REID: Right.

15 MEMBER RENSHAW: So, I stand corrected and that's  
16 according to Robert's Rules.

17 CHAIRPERSON SOCKWELL: But, it won't be recorded  
18 as three, zero, two. It'll just be recorded as three --

19 VICE CHAIRPERSON REID: Three, two.

20 MEMBER RENSHAW: Two.

21 CHAIRPERSON SOCKWELL: As three, zero, two?  
22 Okay.

23 Now, what about the first case that we -- does  
24 that apply to --

25 MS. SANSONE: The first case would be three,

1 zero, two with the NCPC member and the Zoning Commission member  
2 not present not voting. With that notation will appear -- if  
3 we were issuing an order, then that notation would appear after  
4 the vote to indicate why there is a -- that they're either not  
5 voting or if they were abstaining, it would indicate  
6 abstention.

7 CHAIRPERSON SOCKWELL: All right. That's fine.  
8 Thank you.

9 We have people in the audience that have not been  
10 identified. Are you here relative to a case or here relative  
11 to some issue of thoughtful participation?

12 AUDIENCE MEMBER: We're students.

13 CHAIRPERSON SOCKWELL: Okay. Well.

14 VICE CHAIRPERSON REID: Oh, this is really not a  
15 good day for observation because we're continuing all the  
16 cases. So, you have to come back on another day when you can  
17 really see some of the action that goes on in here. It does  
18 get to be very interesting.

19 MEMBER RENSHAW: Such as May 22nd.

20 CHAIRPERSON SOCKWELL: Yes or even next week.

21 MEMBER RENSHAW: All day.

22 CHAIRPERSON SOCKWELL: Hopefully, you have time  
23 in your course schedule to complete what you were doing here.

24 VICE CHAIRPERSON REID: What school are you --

25 AUDIENCE MEMBER: Georgetown.

1 CHAIRPERSON SOCKWELL: Georgetown.

2 VICE CHAIRPERSON REID: Oh, okay. Well, welcome  
3 anyway. Please come back.

4 CHAIRPERSON SOCKWELL: Welcome. We're glad to  
5 have you.

6 MEMBER RENSHAW: What is your field of study?

7 AUDIENCE MEMBER: Law.

8 MEMBER RENSHAW: Law?

9 AUDIENCE MEMBER: This is local government class.

10 CHAIRPERSON SOCKWELL: Just for the record, why  
11 don't you step forward and identify yourselves. We would like  
12 to at least record the fact that you participated.

13 AUDIENCE MEMBER: Okay. It's great to have it on  
14 public record then.

15 CHAIRPERSON SOCKWELL: Yes. Put your microphones  
16 on. Just give your name.

17 MR. SANTOS: Gabe Santos.

18 CHAIRPERSON SOCKWELL: And you're a student in --

19 MR. SANTOS: Student, second year at Georgetown  
20 Law School.

21 MS. LIPSYTE: Susannah Lipsyte. Second year law  
22 student at Georgetown.

23 MR. THOMASSON: Scott Thomasson. Also a second  
24 year law student at Georgetown Law Center.

25 CHAIRPERSON SOCKWELL: Thank you very much for

1 coming and we hope that you do come back at a more opportune  
2 time for a full day of strongly opposed and supported hearings.

3 MS. SANSONE: Mr. Chairman, this might present  
4 yet another opportunity. As you know, some of our students at  
5 American University Law School have participated in hearings by  
6 providing pro bono assistance --

7 MEMBER RENSHAW: Absolutely.

8 MS. SANSONE: -- to the applicants who need some  
9 help marshalling their facts and getting their case together  
10 and perhaps these Georgetown students might also have a similar  
11 interest or perhaps be aware of clinical programs where law  
12 students would be interested if we had cases to refer to them  
13 or people that were needing some extra help with their case.

14 MEMBER RENSHAW: Also, we might say that the  
15 Staff might welcome some additional help here in the office.  
16 Perhaps a review of the zoning regulations which continue. So,  
17 we want to bring to your attention that there are these  
18 opportunities in-house and also for possibly some of the  
19 applicants and we would welcome your talents.

20 CHAIRPERSON SOCKWELL: The Board is always  
21 looking for people who would like to participate in the  
22 process. It's a very important process for the district and  
23 we're just glad that you see that as being valuable to your  
24 education.

25 MEMBER RENSHAW: And there is a Zoning Commission

1 meeting this Thursday at 7:00 having an interesting down-zoning  
2 case that I want to bring to your attention. So, you perhaps  
3 could return and listen to that.

4 CHAIRPERSON SOCKWELL: Thank you all again.

5 With no other business to take place --

6 VICE CHAIRPERSON REID: Before closing, speaking  
7 of talent, I'd just like to acknowledge for the record the fact  
8 of this being our chairperson's last time with us, meeting with  
9 us, hearing with us. I'd like to acknowledge gratitude  
10 for the service of Mr. Sockwell and the fact that he has made  
11 such a great contribution to this Board and I know personally  
12 I've relied on him quite a bit to analyze and to clarify for us  
13 some of the architectural issues or building code issues and I  
14 think that the time that he has been with us, he's demonstrated  
15 quite a bit of commitment and dedication and we will definitely  
16 miss him and his participation on this Board.

17 CHAIRPERSON SOCKWELL: Well, thank you very much,  
18 Ms. Reid.

19 MEMBER RENSHAW: And, Chairman Sockwell, I want  
20 to point out that Robert Sockwell was my first point of contact  
21 as a Board member. He has always been a very willing guide and  
22 a helpful mentor.

23 Here on the Board of Zoning Adjustment, he has  
24 impressive credentials and an impressive grasp of the  
25 intricacies of the cases and I don't think I will forget Robert

1 Sockwell kind of tussling with the plans back here as he  
2 presented often his back to the audience and he was pouring  
3 over these architectural plans to pick out the most minute  
4 point or issue that his eye could detect. Whereas, those of us  
5 who were not schooled in architecture might miss.

6 And we always had to chuckle at Robert Sockwell  
7 in action because he was giving full service to the applicant,  
8 to those community members, and, of course, to the District of  
9 Columbia.

10 I am going to miss his wit and his wisdom and we  
11 hope that Robert Sockwell will be joining all of you in the  
12 audience for cases that come before the Board because it will  
13 please us a great deal to see his presence back with us.

14 VICE CHAIRPERSON REID: I hope also that he will  
15 be available for a consultation or a questioning if we have the  
16 difficult cases that we might need his input and appreciate  
17 that.

18 And also as I understand, there was a message  
19 from Mr. Hood.

20 MR. HART: Yes, there are two messages here.

21 So far you have been hearing from Board members  
22 and, you know, we're the engine for the Board members. As  
23 Staff for the Board of Zoning Adjustment, I would like to say  
24 or have to say that we enjoyed working with Mr. Sockwell. We  
25 enjoyed it a lot sometimes.

1           But, it was an experience working with him, a  
2 learning experience and I must say that his wit took us out of  
3 quite a few dicey situations, you know, in Board deliberations  
4 and on behalf of the Staff, I want to say, you know, we're  
5 sorry to see you go and it was a learning experience for us.

6           Now, on behalf of Mr. Hood who is a past chair of  
7 the Zoning Commission and a sitting member of the Zoning  
8 Commission, he called me this morning and he said he won't be  
9 able to make it and he understands the proxy method very well  
10 because he asked me by proxy to speak for him to Mr. Sockwell.

11  
12           He asked me to say he enjoyed working with you  
13 and to be sure to say it was a learning experience for him. He  
14 learned a lot from working you and he hates to see you go and  
15 he says you're taking a very valuable chunk of the Board of  
16 Zoning Adjustment with you and he will be talking to you.

17           CHAIRPERSON SOCKWELL: Well, thank you very much,  
18 Mr. Hart and Ms. Reid and Ms. Renshaw and Ms. Bailey for your  
19 help with everything.

20           I felt that my participation on the Board was  
21 buoyed by the fact that I had Sheila Cross Reid to be my mentor  
22 when I came in because she was the chairperson and the senior  
23 person on this Board who showed me the way to the procedures  
24 and understanding a lot of the intricacies of working with the  
25 cases and the Board as a whole.

1 I think that Ms. Renshaw brought to me a strong  
2 understanding of the community perspective from someone who has  
3 been a working advocate of the community position for many  
4 years with the advisory neighborhood commission and I have to  
5 say that I appreciated all of the work that Ms. Sansone and  
6 other members, Alan Bergstein, of the Corporation Council  
7 provided, all the work that they have done to streamline our  
8 ability to work with the cases effectively. The strong  
9 commitment to making sure that their points were well covered  
10 in body of laws And it has been a very  
11 enlightening experience for me, a native Washingtonian, to be  
12 able to serve the mayor and our city as an appointed member of  
13 this Board, to try to bring stability to our neighborhoods, to  
14 try to work with the regulations and the understanding of what  
15 the city stands for and what it can be in trying to be fair and  
16 impartial and thorough in dealing with cases before the Board  
17 of Zoning Adjustment and to all of you, I give you my heartfelt  
18 appreciation.

19 And I promise that I will show up for some of  
20 these hearings especially since I won't have to stay if they go  
21 too late, but very seriously, it has been a tremendous pleasure  
22 to work with all of you. Thank you, Ms. Reid, Ms. Renshaw,  
23 Mr. Hart, Ms. Bailey and I can't say enough for Ms. Kress who  
24 is not here, Ms. Sansone, Mr. Bergstein who's not here and let  
25 me say one thing, our recorders --

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VICE CHAIRPERSON REID: One more thing.

CHAIRPERSON SOCKWELL: Yes, one more thing. Our reporters are recorders who sit in the corner constantly trying to know what is being said when people are away from the microphone are part of the reason that this all works and John Nyarku and Nyambi Nyambi, everybody who has been involved has made this a pleasant experience and a worthwhile experience and is making it better and better everyday.

So, thank you all and with that, there's no other business and again thank you for the students from Georgetown University coming.

This hearing is adjourned.

(Whereupon, the meeting was concluded at 10:05 a.m.)

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