

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY

DECEMBER 10, 2002

+ + + + +

The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:40 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
CURTIS ETHERLY, JR.	Board Member
DAVID A. ZAIDAIN,	Board Member

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COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA
Beverley Bailey, Office of Zoning
Clifford Moy, Office of Zoning
John K. A. Nyarku, Office of Zoning

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

(9:40 a.m.)

CHAIRPERSON GRIFFIS: I would like to call to order the Special Public Meeting of the D.C. Board of Zoning Adjustments for December 10, 2002. We regret our delay; however, we had substantial submissions in relation to an application for this morning that came in late, and we have taken ample time to review those.

That being said, let me just wish good morning from the entire Board, Mr. Etherly on my right, Ms. Renshaw, Vice Chair, and Mr. Zaidain, representing National Capitol Planning Commission. Also with the Office of Zoning with us this morning is Ms. Bailey. Ms. Pruitt will be out. Mr. Moy and Mr. Niaku also with us.

With that, let us jump into the first case of the public meeting.

MR. MOY: Good morning, Mr. Chairman. The first case for the public meeting is Application No. 16927 of The Public Welfare Foundation and Manna, Inc., pursuant to 11 DCMR 3103.2 for a variance for the lot area and lot width requirements under Section 401, a variance from the lot occupancy requirements under Section 403, a variance from the rear yard

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1 requirements under Section 405, a variance from the
2 off-street parking requirements under Subsection
3 2101.1 and a variance from the building on alley lot
4 provisions under Subsection 2507.2, and pursuant to 11
5 DCMR 3104.1, a special exception to allow required
6 off-street parking spaces to be located on a lot other
7 than where the principal structure is located under
8 Section 2116 to allow the construction of 12 single
9 family dwellings in the R-4 District at premises in
10 the rear of the 1300 block of Temperance Court, N.W.,
11 Square 274, Lots 57 through 61, and 804 through 820.

12 Mr. Chairman, we have two documents that
13 were submitted after the due date. The first document
14 is the OP report which is dated December 3. The
15 second document is from the applicant dated December
16 6.

17 That completes my report.

18 CHAIRPERSON GRIFFIS: Thank you very much,
19 Mr. Moy, and I'm assuming that the December 3 OP
20 report is inclusive of the DDOT report, which was
21 actually delivered to us combined and separate. So,
22 just for the Board's information, what we have before
23 us is whether we open the record and waive our rules
24 to accept these reports. I'd hear from anybody if
25 they have objections to doing so.

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1 (No response.)

2 CHAIRPERSON GRIFFIS: Then let me hear
3 from you if you are in favor of doing that.

4 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

5 CHAIRPERSON GRIFFIS: Yes.

6 VICE CHAIRPERSON RENSHAW: I would like to
7 re-open the record to accept this material, but I just
8 want to state that we have had inadequate time to
9 review the material that was presented today in our
10 executive session, so that while accepting it, we do
11 need time to stand back and take a look at what has
12 been submitted.

13 CHAIRPERSON GRIFFIS: Very well, and just
14 for clarification, although it was received by the
15 Office of Zoning on December 6, the packages that go
16 out to Board members for their use and review happened
17 prior to that so that this was not in the submission,
18 so it was, in fact, delivered to us this morning.

19 Very well, Ms. Renshaw, I note your
20 concern on not having adequate time to review that.
21 Any others?

22 MEMBER ZAIDAIN: Mr. Chair, I would agree
23 with Ms. Renshaw on this same issue. See, this is a
24 very complicated project that we're trying to
25 deliberate on, and unfortunately just reading the

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1 transcript and looking at the reports from the prior
2 hearing doesn't paint the full picture for what we
3 need to deliberate on. All of these reports that came
4 in from DDOT, OP, the applicant submitted two reports,
5 one of which we just go this morning.

6 If there's a way to, and this is something
7 I think we need to discuss, that we need to bring this
8 back before the Board and give us time to read through
9 the record, possibly give these agencies and the
10 applicant time to shore up their positions, and maybe
11 we can have a better deliberation and make a more
12 informed decision. I'll be honest with you, I'm not
13 sure how we go about doing that procedurally, but
14 that's my position.

15 CHAIRPERSON GRIFFIS: Very well. I
16 appreciate that. I think further in that vein of not
17 acting on this this morning is the fact that the
18 submission of December 6 by the applicant speaks to
19 the potential or the reality of changing the
20 application, which may actually reduce the number of
21 variances, and I think it's fairly important for us to
22 see those changes and take the time to really digest
23 what that is and how it relates to the entire case or
24 how it makes to the burden of proof that was presented
25 to us within the record for the variances.

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1 That being said, there was some discussion
2 also in terms of the special exception to allow the
3 required off-street parking spaces that would be
4 located on a lot other than the principal structure,
5 and I believe that we are looking at that based on my
6 review of the regulations and also on staff's review
7 that that actually is a variance under 2116.2, which
8 again changes essentially the nature of it, although
9 it's my understanding in brief review of their
10 submission, that that may be one of the variances that
11 goes away. Clarification I think would be important.

12 MEMBER ZAIDAIN: Right, that's the thing
13 we don't know for sure. So, how do we deliberate on
14 this today if we don't have clarification on that?

15 CHAIRPERSON GRIFFIS: Okay, in which case
16 I suggest that we take this up again on the 14th, and
17 that would be January of next year.

18 VICE CHAIRPERSON RENSHAW: Mr. Chairman?

19 CHAIRPERSON GRIFFIS: Yes.

20 VICE CHAIRPERSON RENSHAW: I would like to
21 get from the applicant a new Office of the Surveyor
22 layout.

23 CHAIRPERSON GRIFFIS: You'd like to keep
24 the record open for submissions of several documents?

25 VICE CHAIRPERSON RENSHAW: Yes, because I

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1 think it's important to have the applicant add in the
2 residences on the other side of the 10-foot public
3 alley. I would like to get a depiction on the
4 surveyor's map of those residences.

5 CHAIRPERSON GRIFFIS: Okay, so you want to
6 see some sort of graphic delineation of the structures
7 that are adjacent to the subject site?

8 VICE CHAIRPERSON RENSHAW: Exactly.

9 CHAIRPERSON GRIFFIS: Okay, and most
10 importantly are those, if I understand that correctly,
11 most importantly on the west side of the 10-foot
12 public alley?

13 VICE CHAIRPERSON RENSHAW: Exactly.

14 CHAIRPERSON GRIFFIS: Okay. I think, to
15 start, I think that's an excellent -- and what that
16 site plan should also graphically depict is the
17 changes of the application, or the design, and I think
18 stepping back even further, I think what we will need
19 from the applicant is a statement of clarification of
20 what they are pursuing. If there are variances that
21 have been reduced in the application, we should have a
22 letter stating the formal withdrawal of those
23 variances before the Board. Anything else?

24 (No response.)

25 I cannot believe, Ms. Renshaw, that you

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1 would not like to keep the record open for any report
2 from --

3 VICE CHAIRPERSON RENSHAW: I was just
4 about to say as you jumped in, to keep the record open
5 for a report from the fire department.

6 CHAIRPERSON GRIFFIS: Okay.

7 VICE CHAIRPERSON RENSHAW: That is very
8 important to this project, specific to the 10-foot
9 alley.

10 CHAIRPERSON GRIFFIS: Okay, and I think it
11 would be your opinion and the Board's opinion --
12 correct me if I am not stating it wisely -- that we
13 will continue with this case and deliberate on it if,
14 in fact, the fire department does not avail themselves
15 to report, but we would clearly accept it into the
16 record and look for that.

17 As it is, because I think it was a
18 substantial issue in terms of, first if all, what the
19 applicant is asking for the use of those alleys and
20 the 30-foot alley, that there should be clarification
21 of how not only to the residents and the population
22 surrounding the alleys access and utilize the site,
23 but also how it might, in fact, be serviced. That
24 would include, in fact, trash trucks and fire
25 department.

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1 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I
2 just want to comment that the questions asked of the
3 fire department by the Office of Planning were very
4 detailed, very direct, and very important to the case,
5 and we look for the response from the fire department,
6 and perhaps it's necessary for the office to, or the
7 Office of Planning rather, to communicate once again
8 with the fire department to prompt a response.

9 CHAIRPERSON GRIFFIS: Okay. Anything
10 else?

11 MEMBER ETHERLY: Mr. Chair, if I may, I'll
12 just note for the record that there was some
13 discussion in the DDOT submission, which is Exhibit
14 No. 37, regarding the absence in the application of a
15 traffic study regarding traffic flow. Perhaps I might
16 be interested in some comment from my colleagues as to
17 whether there might be a need for any type of
18 discussion on the part of the applicant in terms of
19 subsequent submissions regarding a traffic study or
20 any kind of information regarding plans for traffic
21 flow on the subject property.

22 VICE CHAIRPERSON RENSHAW: I support that,
23 Mr. Etherly.

24 MEMBER ETHERLY: The language that I'm
25 looking at in the traffic study states that there is

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1 no information in the application on traffic study
2 showing how traffic will flow in the building complex
3 bounded on all sides by public alleys. Thank you, Mr.
4 Chair.

5 CHAIRPERSON GRIFFIS: I appreciate that,
6 and I think that's a good point. I think the site
7 plan is being resubmitted. I think it will be easily
8 enough to --

9 MEMBER ETHERLY: Speak to that.

10 CHAIRPERSON GRIFFIS: Indicate the
11 proposed traffic flow and how it's going to be used.
12 When DDOT's traffic study, that in my mind speaks of a
13 much larger --

14 MEMBER ETHERLY: Right, and I --

15 MEMBER ZAIDAIN: That was going to be my
16 statement. I wouldn't advocate, you know, the hiring
17 -- well, you know, the submittal of an overly detailed
18 traffic study with counts. I just think these issues
19 that DDOT has brought up needs to be addressed. We
20 just need some clarity on the whole thing.

21 MEMBER ETHERLY: Exactly.

22 CHAIRPERSON GRIFFIS: I think the
23 substance of what they're saying is what we've also
24 said, Mr. Etherly, and I would agree with you, and
25 that is, how is this alley system going to be used.

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1 There was discussion in the record. There is some
2 documentation. Clearly we all still have questions,
3 and so in the revision of the submissions, that
4 clarification be brought to the Board by the
5 applicant. Ms. Renshaw?

6 VICE CHAIRPERSON RENSHAW: I want to just
7 make a point about pedestrian safety in this alley
8 system. We note with the submission from the
9 applicant dated December 6 that the concept of a
10 sidewalk along the northernmost east-west alley has
11 been dropped. Therefore, if DDOT could just give some
12 guidance as to pedestrian safety in the alley, a
13 concern about children playing in the alley, how is it
14 going to be handled.

15 CHAIRPERSON GRIFFIS: I think that's an
16 excellent point. I'm not sure about children playing,
17 but in terms of pedestrian activity.

18 VICE CHAIRPERSON RENSHAW: Well, it's
19 something to note, pedestrian activity.

20 CHAIRPERSON GRIFFIS: Pedestrian activity,
21 I think that goes into what needs to be shown of
22 traffic flow. That is vehicular, that is service,
23 that is emergency, and that is pedestrian. Clearly
24 hopefully folks that are using the Metro -- well,
25 there it is.

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1 Anything else?

2 (No response.)

3 Okay, let me verify with staff that we
4 have availability on the 14th. If I'm not mistaken,
5 this will not be the first case of the special public
6 meeting, but will be in the morning at nine-ish. Is
7 that correct?

8 MR. MOY: Yes, Mr. Chairman.

9 CHAIRPERSON GRIFFIS: Okay. Anything else
10 we need to do on this?

11 (No response.)

12 Anything else, Board members, staff?

13 (No response.)

14 Very well then. Let me just make note, is
15 the applicant here or representative from the
16 applicant in this case? Good morning, sir.

17 MR. GROSS: Good morning, Mr. Chairman.
18 Nathan We. Gross for the applicant.

19 CHAIRPERSON GRIFFIS: Good. We just
20 rattled off quite a bit. Are you clear on what the
21 Board is looking for?

22 MR. GROSS: Yes. Hopefully we can turn
23 all that around. We'll certainly do our best and be
24 as thorough as possible.

25 CHAIRPERSON GRIFFIS: Okay. Is there more

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1 time that's required? I mean, we can easily set this
2 off further.

3 MR. GROSS: Well, I think we would rather
4 try to keep it on schedule, and we can communicate
5 with staff, I guess, if that proves to be a problem.

6 CHAIRPERSON GRIFFIS: Very well. I think
7 we can be flexible on that. What we want to do is not
8 postpone this, you know, indefinitely. We want to get
9 it as quickly as possible. We're getting into the
10 holidays. The first time that we'd have ample time is
11 the 14th.

12 I would suggest clearly, as you've just
13 stated, that if you do not believe that you can get
14 your information in by then, contact staff. They will
15 notify the Board, and we can have it scheduled, if I'm
16 not overstepping my bounds to do that. I think we can
17 handle that.

18 Anything else? Did you have any other
19 questions?

20 MR. GROSS: No. We'll work with this and
21 do the best we can.

22 CHAIRPERSON GRIFFIS: Okay. Thank you
23 very much.

24 MR. GROSS: Thank you.

25 CHAIRPERSON GRIFFIS: In which case, I do

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1 believe that this concludes the 10 December '02
2 Special Public Meeting.

3 (Whereupon, the above-referred to meeting
4 was adjourned at 9:55 a.m.)

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