

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

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TUESDAY

JUNE 17, 2003

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The Special Public Meeting convened in
Room 220 South, 441 4th Street, N.W., Washington,
D.C. 20001, pursuant to notice at 9:00 a.m.,
Geoffrey H. Griffis, Chairperson, presiding.

BZA BOARD MEMBERS PRESENT:

GEOFFREY H. GRIFFIS
CURTIS L. ETHERLY
DAVID A. ZAIDAIN
RUTHANNE G. MILLER

ZONING COMMISSIONER PRESENT:

PETER G. MAY

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OFFICE OF ZONING STAFF PRESENT:

BEVERLEY BAILEY
CLIFFORD MOY
JOHN K. A. NYARKU

OFFICE OF PLANNING STAFF PRESENT:

STEVEN COCHRAN

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

LORI MONROE

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

2 9:23 a.m.

3 CHAIRPERSON GRIFFIS: Good morning, ladies
4 and gentlemen. We are a few minutes behind.
5 However let's jump right into it and I need to call
6 the 17th of June, 2003, public meeting to order.
7 This is, of course, the District of Columbia Board
8 of Zoning Adjustment.

9 I will save further openings until after
10 our decision making in which case we have a very
11 fascinating morning beginning with convening a
12 hearing, or rule making rather, on the FMBZA and
13 then going into out public hearing.

14 First let's announce the case for the
15 public meeting and I'll save introductions until
16 after.

17 MR. MOY: Good morning, Mr. Chairman,
18 members of the Board. The case for application for
19 decision this morning is application No. 17017 of
20 Chinatown East LLC, pursuant to 11 DCMR 3103.2, for
21 a variance from the lot occupancy requirements under
22 Section 403, a variance from the rear yard
23 requirements under Section 404, a variance from the
24 Downtown Development (DD) district's Chinatown
25 provisions under Section 1705, and variances from

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1 floor area ratio (FAR) requirements under Sections
2 402 and 1707 and Chapter 17, or in the alternative
3 to a portion of the FAR variances sought, pursuant
4 to 11 DCMR 3104.1, a special exception from the roof
5 structure set back provisions under Section 411, to
6 construct an apartment building in the DD/R-5-E
7 District at premises 809 through 813 6th Street,
8 N.W. That's in Square 485, Lot 46.

9 On June 3rd, 2003, the Board heard
10 testimony on the case application and scheduled a
11 decision meeting for June 17, 2003. At the meeting
12 the record was open for the Board to receive an
13 economic viability analysis and supporting
14 information which would advance their economic
15 feasibility argument.

16 The applicant has submitted an economic
17 viability analysis dated July 15, 2002, and
18 supplemental economic arguments dated July 11, 2003.

19 Those are in your case folders as Exhibits 31 and
20 32 respectively.

21 The Board will act on the case application
22 staff notes that notes for the Board at its previous
23 discussion to amend the application advertisement to
24 Section 411.11. That completes my briefing, Mr.
25 Chair.

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1 CHAIRPERSON GRIFFIS: Thank you very much,
2 Mr. Moy.

3 I believe Mr. Williams is present. Would
4 you mind coming up, although this isn't what we
5 normally do. Clearly it's decision making and we
6 don't have further testimony. This case, of course,
7 has no parties in opposition. It has standing for
8 the ANC which is in support. In fact, this
9 application enjoys support from all those attendant
10 to it including the Office of Planning.

11 Mr. Williams, I just need to ask very
12 briefly, clearly we sent a request out just to
13 substantiate a little bit further the economic
14 argument. As you know, I'm sure this Board does
15 entertain that and has the ability to do so.
16 However, it is often times fairly cumbersome, or at
17 least confusing perhaps. Maybe not the right words.

18 The issue has come forward in discussion
19 in executive session with my Board Members that what
20 was being asked and we have all read the adjacent or
21 close proximity project that made the argument. We
22 have the submittal from that that you presented as
23 evidence.

24 The issue comes down and I think it was
25 very simple that we were asking for you to go out

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1 and hire an economic analyst to do a further study,
2 but rather to show the threshold of which the number
3 of units, and I'll use close approximation of the
4 units. If we are looking at 30 to 32 with zoning
5 relief, we're looking at 15 without.

6 The only thing that was being looked for
7 was the base performa or base financial analysis to
8 say at 15 units this is what the project looks like
9 and it would substantiate, one would assume, your
10 argument that that is not financially viable.

11 I think some of the Board Members, and I
12 will certainly let them speak, have relayed great
13 concern to me that if we are being asked to make the
14 decision based on that, that is the simple
15 information that we need in the record for our
16 deliberation. Is that clear what I said?

17 MR. WILLIAMS: It's clear, Mr. Chairman.
18 We believed, as I think I indicated in my letter,
19 that we felt that the case could be made and was
20 made without that. That the economic analysis was
21 supplemental information and we didn't feel that it
22 was critical to the decision.

23 If you can make the decision without it,
24 then we would ask that you make the decision today
25 without our having to go to the additional time and

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1 expense of providing what may be marginal to our
2 view information.

3 CHAIRPERSON GRIFFIS: Right. And I guess
4 what I want to be very direct and clear of, we
5 weren't asking for any additional cost to produce a
6 report or economic analysis.

7 I mean, maybe it's a wrong assumption on
8 our part but Board Members have said to me, "Isn't
9 this something that would have been done at the
10 beginning of the process for looking at the project?"

11 Isn't this something that's produced just for
12 financing of a project?" We're not asking for full-
13 blown performas but certainly something that speaks
14 to specific cost of this specific site.

15 MR. WILLIAMS: I can consult with my
16 client, Mr. Griffis. I can tell you that I was not
17 involved with any of the analysis at the beginning.

18 I've seen no such figures. I've spoken with the
19 applicant about this and I represented what she
20 advised me of where the threshold was. And what
21 information she has, or is prepared to submit, if
22 it's essential I cannot state at this moment.

23 CHAIRPERSON GRIFFIS: Right. Okay. Let
24 me just take -- do any of the Board Members want to
25 speak to this?

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Mr. May.

COMMISSIONER MAY: I just want to emphasize the point that the case for the variances hinges on in every one of the summary arguments for the key variances in this project it refers to the economic feasibility of the project.

While there is an indication that the argument you're making is correct, there just isn't enough evidence from what we see, or at least from what I've seen, to be able to say, "Yes, there is a practical difficulty due to the economic feasibility of it." There just isn't enough information yet.

Again, we don't want to ask for another -- an extensive economic analysis that would need to be produced. It seems, though, that this sort of basic calculation of the cost of building, the cost of buying, the cost of selling the units ought to be something that has been done and could be summarized in a relatively brief way essentially as evidence to the Board that there is an economic case to be made for this.

Because without the economic case it's very difficult to vote in favor of these variances and that's the difficulty we have. We don't want to send this away because the case isn't made because

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1 there's an indication that the case can be made. We
2 just want to give you that chance to make the case.

3 MR. WILLIAMS: We certainly would prefer
4 to have the chance than to have a denial. What I
5 would suggest if it's appropriate then, Mr.
6 Chairman, is that after the meeting and after the
7 staff have gone back into the other room, that the
8 applicant and I meet with staff and we'll figure out
9 some appropriate way to get something in front of
10 you very shortly so that we can get this thing to
11 the point where you all feel comfortable and we do,
12 too.

13 CHAIRPERSON GRIFFIS: I think that would
14 be very wise. Believe me, we take very seriously
15 not wanting to delay things or make more burden than
16 necessary. It's regretful that perhaps our message
17 wasn't clear this week on what we exactly needed for
18 today.

19 We were hoping -- I think Mr. May has
20 stated fairly well but I think the Board feels this
21 is a very strong application and we don't want this
22 to go away but we have to have the substantiation in
23 the record for us to deliberate on.

24 With that, I would anticipate -- we will
25 wait for your word but we will set this for a

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1 special meeting next Tuesday and bring it up again
2 and hopefully have that information and we'll decide
3 it then.

4 Unless there is some way we can -- it
5 probably won't work. If you have the information in
6 today and we're in session, perhaps we could set a
7 meeting for this afternoon.

8 MR. WILLIAMS: Send in the information?

9 CHAIRPERSON GRIFFIS: Right. Let's be
10 clear and we'll have this first thing in the morning
11 on Tuesday next. Is there anything else?

12 MR. WILLIAMS: Yes, it's clear to me. If
13 you have nothing else, I have nothing further.

14 CHAIRPERSON GRIFFIS: Any other Board
15 Members comments? Does staff have any?

16 MR. MOY: No, sir.

17 CHAIRPERSON GRIFFIS: Very well. Good.
18 Again, we regret that we weren't able to proceed
19 with this today but let us be cautious and make sure
20 that we actually have a successful and efficient
21 process with this.

22 With that, then I can conclude the special
23 public meeting of 17th of June, 2003. As stated, we
24 will bring this issue of application 17017 to the
25 Board at a special public meeting next Tuesday.

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(Whereupon, at 9:34 a.m. the special meeting was adjourned.)