

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY

APRIL 14, 2009

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MARC D. LOUD, Chairperson
SHANE L. DETTMAN, Vice Chairman

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
BEVERLEY BAILEY, Sr. Zoning Specialist
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

The transcript constitutes the minutes from the Special Public Meeting held on April 14, 2009.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

9:36 a.m.

CHAIRPERSON LOUD: Good morning.

This Special Meeting of the Board of Zoning Adjustment of April 14, 2009 will please come to order.

Good morning, ladies and gentlemen. My name is Marc Loud. I'm the Chairperson of the Board of Zoning Adjustment. Joining me today are Vice-Chairman Shane Dettman, Mr. Anthony Hood, Chairperson of the Zoning Commission and they are to my right. To my left is Mr. Cliff Moy, who is the Secretary of the Board of Zoning Adjustment, Ms. Lori Monroe from the Office of Attorney and Ms. Beverley Bailey, who is with the Office of Zoning and is the Zoning Specialist.

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

We do not take any public testimony at our meetings unless the Board

1 asks someone to come forward.

2 Please, be advised that this
3 proceeding is being recorded by a Court
4 Reporter and is also webcast live.
5 Accordingly, we must ask you to refrain from
6 any disruptive noises or actions in the
7 hearing room.

8 Please turn off all beepers and
9 cell phones.

10 Does the staff have any
11 preliminary matters? Does the staff have any
12 preliminary matters?

13 MS. BAILEY: Mr. Chairman, this is
14 a Special Public Meeting. And Mr. Moy is
15 going to be handling that.

16 MR. MOY: Sorry, Mr. Chair. I was
17 in discussion with the Attorney General.

18 CHAIRPERSON LOUD: That's quite
19 all right.

20 MR. MOY: As a matter of fact, we
21 did but we can take it up on this one case
22 that we have for the Special Public Meeting.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON LOUD: Okay. Well, in
2 that case let's proceed with the agenda for
3 the morning.

4 MR. MOY: Very good. Good
5 morning, Mr. Chairman and members of the
6 Board. That one case is Application 17791 of
7 DRM & Associates, Inc. Pursuant to -- well,
8 Staff should say that this application has
9 been amended by the applicant, as the Board is
10 aware of, where now the applicant has
11 withdrawn his proposal to add a building to
12 establish a community service center, and
13 along with the zoning relief which includes
14 multiple variances.

15 So as the application now reads is
16 Application 17791 of DRM & Associates, Inc,
17 pursuant to 11 DCMR § 3104.1 for a special
18 exception to continue. This is a renewal.
19 Continue of a child development center, 50
20 children infant to 12 years and nine staff
21 under section 205. And the variance from the
22 off-street parking requirements under section

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 2101 in the R-4 District at premises 728 F
2 Street, Northeast. Square 891, Lot 49.

3 On March 17th the Board completed
4 public testimony, closed the record and
5 scheduled its decision on April 14th, 2009.

6 The Board requested additional
7 information to supplement the record from the
8 ANC 6A. And from a Vincent Morris, who is the
9 adjacent owner.

10 There are two filings in your
11 record, Mr. Chairman. The first is a ANC 6
12 letter, dated April 9, 2009. And that is
13 identified in your case folders as Exhibit 46.

14 We also have, which I mentioned
15 earlier as the preliminary matter, the record
16 was not open for the applicant to file, but he
17 did. And that filing is identified as Exhibit
18 47. It's a letter dated April 8, 2009 where
19 the applicant:

20 (a) Request that the Board
21 approve for the continued operation of the
22 child care center for an "indefinite period."

1 That's on page 2 of this letter, and;

2 (b) Is the applicant is also
3 requesting that the Board eliminate the
4 variance relief from the off-street parking
5 requirements.

6 There's no filing from Mr. Vincent
7 Morris. And the Board is to act on the merits
8 of the application.

9 And that completes the staff's
10 briefing, Mr. Chairman.

11 CHAIRPERSON LOUD: Thank you, Mr.
12 Moy.

13 I believe, and that's an excellent
14 summary of what's happened in the case. I
15 just wanted to add also that I think the
16 applicant did a good job of working with the
17 ANC and working with Mr. Morris to try to
18 bring the case into a posture of closure
19 wherein the requirements of the Zoning regs
20 could be met, and also the effected parties
21 could be made to feel whole.

22 Nonetheless, I think we've

1 reviewed the record. It's a very full record.
2 And the consensus of the Board is that we
3 should probably, and we will this morning,
4 postpone our decision in this morning. And
5 postpone it for a very specific reason. We're
6 going to leave the record open for the
7 applicant, for the Office of Planning, for the
8 ANC and for Mr. Vincent Morris, who I believe
9 was given party status and who submitted
10 Exhibits 23 and I think 23 and 41 regarding
11 initial opposition but subsequently came
12 around to supporting the application.

13 But the point of us not making the
14 decision this morning, and the only reason
15 that we're leaving the record open for the
16 persons I just named is so that they can
17 address the applicant's request for parking
18 variance relief. The facilities that has the
19 universal support on our record would require
20 two parking spaces. And in the initial
21 application for relief it was captioned as
22 seeking parking relief. And then through a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 number of very well intended modifications and
2 negotiations with the ANC, et cetera, it
3 appears as though there may be confusion on
4 the part of those that support it as to
5 whether they're also by that support
6 supporting the parking variance. And we're
7 just not clear from the record that we have:

8 The ANC support letter, Mr.
9 Morris' support email, even to a certain
10 extent the Office of Planning report.

11 So we're going to leave the record
12 open for those entities to have the
13 opportunity to file a supplemental submission
14 on just the parking variance issue only.

15 And what we should do is set this
16 for decision. I think with, and I want to
17 allow for at least one cycle of ANC meeting.
18 And then set it for the first opportunity we
19 can after that. But before we discuss
20 scheduling, I just want to see if Board
21 members had any concerns or comments.

22 MEMBER DETTMAN: Thank you, Mr.

1 Chairman.

2 Just I think exactly what you said
3 is what we need to do. I just wanted to
4 clarify for the record, Mr. Moy had mentioned
5 that the applicant in Exhibit 47 requested the
6 Board to eliminate the request for parking
7 relief under 2101. I think it's clear to the
8 Board that parking relief actually is
9 necessary. We have a lot that's nearing 100
10 percent lot occupancy. And given the number
11 of staff associated with this child
12 development center, two party parking spaces
13 need to be provided in one way or another.

14 So I want to make sure that as we
15 communicate with the applicant that we're
16 going to put off our decision that he's made
17 clear that he does need this relief. Because
18 I don't want to have a situation where he
19 writes a letter saying well I eliminated this
20 relief, I don't need it. So I think it's
21 clear to me, at least, that relief under 2101
22 is necessary.

1 CHAIRPERSON LOUD: Mr. Hood?

2 ZC CHAIRPERSON HOOD: I don't have
3 anything, Mr. Chairman.

4 CHAIRPERSON LOUD: Okay. I agree
5 with you, Mr. Dettman. I think the applicant
6 at his own peril would ignore our opportunity
7 that we're allowing this morning to leave the
8 record open a little longer to address
9 specifically the need for a parking variance
10 on the site.

11 So I hope that the applicant
12 doesn't construe what's been submitted as his
13 articulation of his position on that issue.

14 Mr. Moy, do you have any dates
15 that we can look to?

16 MR. MOY: Okay. My record tells
17 me, Mr. Chairman, that typically this ANC
18 meets the second Wednesday of the month. And
19 I would think that we would be beyond that for
20 the month of April. So the second Wednesday in
21 May, although their schedule can vary, but
22 that's their general time frame would be May

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 13th.

2 So if the Board wanted to schedule
3 a special public meeting in May, we give them
4 after the 13th and the first Tuesday after
5 that would be May 19th.

6 CHAIRPERSON LOUD: It seems to me,
7 anyway, that since this has been well briefed
8 by everybody dated back to at least September,
9 maybe earlier, that probably after that
10 meeting it wouldn't them very long to just
11 indicate whether they're supportive or not.
12 So I would think we could put it on the
13 calendar for the first Tuesday after that.

14 So they'd meet that Wednesday --

15 MR. MOY: Which will be May 13th.

16 CHAIRPERSON LOUD: May 13th. And
17 then they could that to us by, say, Friday?

18 MR. MOY: That's right.

19 CHAIRPERSON LOUD: Okay. And then
20 we could deliberate on Tuesday?

21 MR. MOY: Theoretically yes.

22 CHAIRPERSON LOUD: Theoretically.

1 MR. MOY: So that would be the
2 19th of May special public meeting.

3 And the staff will make the
4 courtesy call as to inform all the parties.

5 CHAIRPERSON LOUD: Thank you, Mr.
6 Moy.

7 ZC CHAIRPERSON HOOD: Mr.
8 Chairman, I will. Is this going to be the
9 first case in the morning?

10 CHAIRPERSON LOUD: Yes. We had
11 intended for it to be the first case.

12 ZC CHAIRPERSON HOOD: All right.
13 Thank you.

14 CHAIRPERSON LOUD: Okay.

15 MR. MOY: Again, special public
16 meeting, May 19th. All filings due that
17 Friday, May the 15th.

18 That would conclude this case, Mr.
19 Chairman.

20 CHAIRPERSON LOUD: Thank you.

21 (Whereupon, at 9:47 a.m. the
22 Special Public Meeting was concluded.)