

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

TUESDAY

JANUARY 19, 2010

+ + + + +

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 D. Loud, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MARC D. LOUD, Chairman
SHANE L. DETTMAN, Vice Chairman, (NCPC)
MEREDITH H. MOLDENHAUER, Board Member

ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)

OFFICE OF ZONING STAFF PRESENT:

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

The transcript constitutes the minutes from the Special Public Meeting held on January 19, 2010.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

AGENDA ITEM	PAGE
Application No. 18019 of Ming Zheng	5
Vote to Approve the Motion	9
 ADJOURN, Chairperson Loud	 10

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

2 9:46 a.m.

3 CHAIRPERSON LOUD: This meeting
4 will please come to order. Good morning,
5 ladies and gentlemen. This is the January
6 19th Public Meeting of the Board of Zoning
7 Adjustment of the District of Columbia. My
8 name is Marc Loud, Chairperson.

9 Joining me today are Vice Chair
10 Shane Dettman. To my right representing the
11 National Capital Planning Commission Mr. Mike
12 Turnbull, representing the Zoning Commission.

13 To my left Mrs. Meredith
14 Moldenhauer, BZA member; Mr. Cliff Moy,
15 Secretary, BZA; Mrs. Lori Monroe, Office of
16 the Attorney General; and on the far left Ms.
17 Beverley Bailey, Zoning Specialist here in the
18 Office of Zoning.

19 Copies of today's meeting agenda
20 are available to you and are located to my
21 left in the wall bin near the door. We do not
22 take any public testimony at our meetings

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unless the Board asks someone to come forward.

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

8 Does the staff have any preliminary
9 matters this morning?

10 MR. MOY: Not this morning, Mr.
11 Chairman.

12 CHAIRPERSON LOUD: Thank you, Mr.
13 Moy. If not, and you said we don't, let's
14 proceed with the agenda.

15 MR. MOY: The first and only case
16 for the Special Public Meeting this morning,
17 Mr. Chairman, is Application No. 18109 of Ming
18 Zheng, pursuant to 11 DCMR 3104.1. This is
19 for a special exception for a fast food
20 restaurant (carry-out) under section 733, in
21 the C-2-A District at premises 6215 Georgia
22 Avenue, N.W. The property is in square 2979,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Lot 39).

2 If the Board will recall, on
3 January 12, 2010, the Board completed public
4 testimony, closed the record, and scheduled
5 this decision on January 19th. The Board
6 requested that the applicant submit additional
7 information to supplement the record by
8 Friday, January 15, 2010.

9 The applicant did file a timely
10 post-hearing document that is in your case
11 folders identified as Exhibit 27th dated
12 January 15. The Board is to act on the merits
13 of the request for a special exception. That
14 completes the staff's briefing, Mr. Chairman.

15 CHAIRPERSON LOUD: Thank you, Mr.
16 Moy.

17 I do believe that we are ready to
18 deliberate the case. In fact, I think we were
19 ready to deliberate last week but we wanted to
20 give the applicant an opportunity to
21 supplement the record with what you have
22 indicated, Mr. Moy, has now been received.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 It's our Exhibit No. 27 dated January 13. Let
2 me just start us off. This is a section 733
3 special exception request to establish a fast
4 food restaurant in the C-2-A.

5 Without going in detail through all
6 of the evidence and the test, the Office of
7 Planning appeared at our hearing last week,
8 January 12. Both in their Exhibit 22, which
9 was part of the record, and in their testimony
10 walked us through the test for the 733. There
11 were no problems as I recall with the
12 applicant meeting the test.

13 I think most of the Board Members
14 were supportive but we wanted to see the
15 applicant demonstrate proof that it could
16 comply with, I think, Section 733.4 regarding
17 putting a vinyl mesh in the rear of the
18 property and the applicant appeared at the
19 hearing and did not have that.

20 Nonetheless, January 13, 2009,
21 Exhibit 27, the applicant supplements the
22 record and says that the owner of the property

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 management firm representing the owner agrees
2 to install a mesh fence around the dumpster
3 area of the property and thereby meet the
4 final outstanding test for the Section 733
5 relief.

6 With that, let me open it up to
7 colleagues. I don't want to personally walk
8 through the test for the evidence. I think we
9 did that last week. I think the applicant
10 makes the case for special exception. I adopt
11 by reference the Office of Planning report as
12 supplemented by this Exhibit 27.

13 MEMBER MOLDENHAUER: Chairman Loud,
14 I believe that you have given a very full
15 summary. I think, as you said, we all were in
16 agreement previously and I don't believe there
17 is any additional need for a discussion in my
18 opinion.

19 MEMBER TURNBULL: I would concur,
20 Mr. Chair. I think with Exhibit 27 from the
21 Harvey Property Management Company basically
22 authorizing or stating that they will put in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the vinyl fence. I think we've got the last
2 piece that we really wanted.

3 CHAIRPERSON LOUD: Okay. Then I
4 would like to move approval of Application No.
5 18019 with special exception for fast food
6 restaurant under Section 733 in the C-2-A at
7 6215 Georgia Avenue, N.W. Is there a second?

8 MEMBER TURNBULL: Second.

9 CHAIRPERSON LOUD: The motion has
10 been made and seconded. All those in favor
11 say aye.

12 ALL: Aye.

13 CHAIRPERSON LOUD: Is there any
14 opposition? Are there any abstentions?

15 Mr. Moy, can you read back the
16 vote, please?

17 MR. MOY: Yes. The staff would
18 record the vote as four to zero to one on the
19 motion of the Chair to approve the application
20 to Section 733. Seconded the motion, Mr.
21 Turnbull. Also in support of the motion Mr.
22 Dettman and Ms. Moldenhauer. No other Board

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Members are participating. Again, four to
2 zero to one.

3 CHAIRPERSON LOUD: Thank you, Mr.
4 Moy. Would this be a summary decision? As I
5 recall, there was no opposition from the ANC.

6 MR. MOY: That's correct.

7 CHAIRPERSON LOUD: Okay. So let's
8 do this as a summary decision. Is there
9 anything further for the decision meeting this
10 morning?

11 MR. MOY: That completes it, Mr.
12 Chairman.

13 CHAIRPERSON LOUD: Okay. Then this
14 decision meeting is adjourned.

15 (Whereupon, at 9:53 a.m. the
16 Special Public Decision was adjourned.)

17

18

19

20

21

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701