

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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Wednesday, July 22, 1998

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The Board met in Hearing Room 220
South, 441 Fourth Street, N.W., Washington, D.C., at
9:00 a.m., Sheila Cross Reid, Chairperson,
presiding.

PRESENT:

SHEILA CROSS REID, Chairperson

BETTY KING, Vice Chair

JOHN G. PARSONS, Zoning Commissioner

STAFF PRESENT:

SHERI M. PRUITT-WILLIAMS, Interim Director

TRACEY WITTEN ROSE, Secretary to the Board

BEVERLEY A. BAILEY, Staff

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P R O C E E D I N G S

(9:38 a.m.)

CHAIRPERSON CROSS REID: Good morning,
Madame Director. Shall we begin?

MS. WITTEN ROSE: Good morning.

CHAIRPERSON CROSS REID: Madame
Secretary.

MS. WITTEN ROSE: Good morning, members
of the Board.

This is a special public meeting of July
22nd, 1998. We just want to go over the bench
minutes.

The first set of minutes would be the
public hearing of May 20th, 1998, that are before
you for your consideration today.

MS. KING: Move the adoption.

CHAIRPERSON CROSS REID: Second.

All in favor?

(Chorus of ayes.)

CHAIRPERSON CROSS REID: Opposed?

(No response.)

MS. WITTEN ROSE: Staff will record the
vote as three to zero, with Ms. King and Ms. Reid to
approve, Mr. Clarens to approve by absentee vote.

The second set of minutes would be the
bench minutes of the public hearing July 8th, 1998.

1 MS. KING: Move the adoption.

2 CHAIRPERSON CROSS REID: Second.

3 All in favor?

4 (Chorus of ayes.)

5 CHAIRPERSON CROSS REID: Opposed?

6 (No response.)

7 MS. WITTEN ROSE: Staff will record the
8 vote as three to zero, with Ms. King and Ms. Reid to
9 approve, and Mr. Hood to approve by absentee vote.

10 The third set of minutes from the
11 special public hearing of July 15th will be deferred
12 because we need Howard University's description of
13 the property boundaries.

14 The last set of minutes will be the
15 meeting minutes of July 8th, 1998.

16 MS. KING: Move the adoption.

17 CHAIRPERSON CROSS REID: Second.

18 All in favor?

19 (Chorus of ayes.)

20 CHAIRPERSON CROSS REID: Opposed?

21 (No response.)

22 MS. WITTEN ROSE: Staff will record the
23 vote as three to zero, with Ms. King and Ms. Reid to
24 approve and Mr. Hood to approve by absentee vote.

25 The next matter on the agenda would be
26 the case to be decided, 16351, the application of
27 Kazys K. Skirpa, et al., pursuant to 11 DCMR 3107.2

1 for a variance from the maximum lot occupancy
2 requirements, Subsection 403.2; a variance from the
3 maximum floor area ratio requirements (subsection
4 1203.3; and a variance from the off-street parking
5 requirement, Subsection 2101.1, for the proposed
6 construction of a two-unit flat in a Capitol Hill
7 Interest District/R-4 District at premises 309 Sixth
8 Street, S.E., and 517 Seward Square, S.E., in Square
9 844, Lot 831.

10 The hearing date was June 17th, 1998.
11 The Board members present were Ms. Reid, Ms. King,
12 Mr. Foushee, and Mr. Clarens.

13 The disposition of the case: as a
14 preliminary matter the Board denied the request for
15 a waiver of the fees by a vote of four to zero. Ms.
16 King, Mr. Foushee, Ms. Reid, and Mr. Clarens to
17 deny.

18 The record was closed at the end of the
19 hearing, except for the following documents were to
20 be submitted into the record: a letter of
21 authorization from the Capitol Restoration Society
22 for Mr. Schauer; a letter of authorization from the
23 Michelle Manor Condominium Association for Robert
24 Westerfeldt; a memorandum from the Zoning
25 Administrator addressing why an easement would not
26 work; documents addressing the efforts of the
27 applicant to negotiate with the condominium

1 association on the easement; and documentation on
2 the subdivision of the lot.

3 Submissions were due by July 6th, 1998.
4 Responses and proposed findings were due by July
5 16th, 1998.

6 The staff person assigned to this case
7 is Ms. Bailey.

8 This matter is before you for decision
9 today.

10 MS. KING: Oh, this is a tough one. It
11 seems to me that it's clear that you must have
12 permission to not have off-street parking. I mean,
13 it's clearly between the Control Board and the
14 nonconforming --

15 CHAIRPERSON CROSS REID: You mean the
16 Historic Preservation Review Board?

17 MS. KING: The Historic Preservation --
18 what did I say?

19 CHAIRPERSON CROSS REID: Control Board.
20 We've got so many boards that we have to contend
21 with these days.

22 MS. KING: Between the Historic
23 Preservation Review Board and the nonconforming
24 nature of the neighboring driveway, there seems to
25 be no way to get an automobile, let alone two
26 automobiles, onto the property. So I think that's a
27 clear case.

1 I am concerned about the fact that this
2 couple, who have been put through sheer unmitigated
3 hell by the various departments of government, et
4 cetera, wanted to build quite a modest structure on
5 that land and now find themselves building a castle.

6 What's your feeling?

7 CHAIRPERSON CROSS REID: Well, Ms. King,
8 I think that I'd like to move that we approve this
9 particular application. I think that the applicant
10 has certainly met his burden of proof in that when
11 you look at the siting of the property on
12 Pennsylvania Avenue on the corner, in that
13 Pennsylvania Avenue is considered within itself to
14 be unique as the city goes as a whole, but also the
15 fact that this particular corner and the type of
16 building he wants to put on that particular lot
17 creates a uniqueness.

18 I think also that, given the fact that
19 there is a unique situation, the practical
20 difficulty arises due to the fact that he is unable
21 to assess the property without some type of
22 agreement for a curb cut possibly with the Historic
23 Preservation Review Board, as well as the inability
24 to reach an agreement with the condominium
25 association.

26 And I don't think that in impairs the
27 integrity of the zoning regulations or map with us

1 having granted him or if we do grant him this
2 particular application.

3 As far as adverse impact is concerned, I
4 don't feel that it has been -- I have not been
5 convinced adequately that there is a sufficient
6 amount of adverse impact that would cause the
7 application not being granted.

8 MS. KING: No, I agree with you on that.
9 I think that there is, after all, a back yard
10 setback from the rear of the house to the eight foot
11 wide driveway of the abutting property.

12 CHAIRPERSON CROSS REID: There's green
13 space.

14 MS. KING: Right, and also that although
15 I believe there's a door, I don't believe that there
16 are a great many windows, if any, on that side of
17 the condominium.

18 So I think that the adverse impact --
19 and I think that when people live on Capitol Hill
20 with the number of residences that do not have off-
21 street parking, that, you know, there is a parking
22 problem. It happens in lots of neighborhoods like
23 that.

24 CHAIRPERSON CROSS REID: What was the
25 position of the ANC on that particular case? Were
26 they neutral or they decided to take no position,
27 which is a good sign.

1 MS. KING: I'm sorry. I don't have
2 that.

3 Do we have the file?

4 MS. KING: Tracy, do you have the --

5 CHAIRPERSON CROSS REID: Because I
6 remember that I had made a note that they had
7 decided not to take a position on this particular
8 case.

9 MS. KING: I'm so drowning in paper on
10 this thing. Yes, 24.

11 CHAIRPERSON CROSS REID: And would you
12 please, for the record, Ms. King --

13 MS. KING: The Commission acted on this
14 application in its meeting of June 9th. Because of
15 the short time between our meeting and the hearing
16 in this case and because I left on an out-of-town
17 trip the following morning, we had a practical
18 difficulty in filing this report, and so forth.

19 We waived it in, I'm sure.

20 CHAIRPERSON CROSS REID: Yeah.

21 MS. KING: "For the reasons spelled out
22 in the attached Planning and Zoning Committee
23 report, ANC 3B has decided neither to oppose or
24 support this application. The vote was six to one
25 to one in its properly noticed meeting, a quorum
26 being five Commissioners."

27 So they officially took no --

1 CHAIRPERSON CROSS REID: No position.

2 Okay.

3 Now, I need a second on the motion.

4 MS. KING: I second.

5 CHAIRPERSON CROSS REID: Okay. All in
6 favor?

7 (Chorus of ayes.)

8 CHAIRPERSON CROSS REID: Opposed?

9 (No response.)

10 CHAIRPERSON CROSS REID: We have a proxy
11 vote from Mr. Clarens.

12 MS. WITTEN ROSE: Mr. Clarens.

13 CHAIRPERSON CROSS REID: And that is?

14 MS. WITTEN ROSE: In favor of the
15 motion.

16 CHAIRPERSON CROSS REID: In favor of the
17 motion. Okay.

18 MS. WITTEN ROSE: Staff will record the
19 vote as three to zero, with Ms. Reid, Ms. King, and
20 Mr. Clarens to grant the application.

21 MS. KING: You're okay?

22 MS. WITTEN ROSE: The next matter is
23 16358, the application of First Street Sussex
24 Investment Corporation, pursuant to 11 DCMR 3107.2,
25 for a variance from the minimum lot area and width
26 of lot requirements, Subsection 401.3, to allow for
27 two row dwellings in an R-3 District at premises

1 1306 to 1306-1/2 S Street, S.E., Square 5603, Lot
2 800, per subdivision, Lot 16 and part of Lot 15.

3 The hearing date was June 17th, 1998.
4 The Board members participating were Ms. Reid, Ms.
5 King, and Mr. Foushee.

6 The record was closed at the end of the
7 public hearing, except for the following documents
8 were to be submitted into the record: additional
9 information related to the case from the applicant;
10 a report from the Advisory Neighborhood Commission;
11 letters of support from the community; and proposed
12 findings of fact and conclusions of law.

13 These submissions were due by July 15th.
14 No responses were to be filed. The record was sent
15 to Mr. Parsons, and the staff person assigned is Ms.
16 Bailey.

17 MS. KING: Did we get a report from the
18 ANC?

19 MS. WITTEN ROSE: No.

20 MS. KING: Or letters of support from
21 the community?

22 MS. WITTEN ROSE: No.

23 MS. KING: Or proposed findings of fact
24 and conclusions of law?

25 MS. WITTEN ROSE: The letter that we
26 received from the applicant could be considered
27 that. I just was not quite sure.

1 CHAIRPERSON CROSS REID: The letter that
2 came from the applicant actually, Ms. King, spoke to
3 a different issue than the one which the case that
4 is before us involved. They were referring to
5 whether or not they were in the correct zone, as a
6 matter of right whether or not their particular
7 application is correct as far as the zoning was
8 concerned.

9 But the issue was not so much that as it
10 is the basis for the application. That is based on
11 lot area, the lot area and also the frontage.

12 MS. WITTEN ROSE: Lot width.

13 CHAIRPERSON CROSS REID: The lot width,
14 which was not really addressed.

15 Did you pick up the gist of that?

16 MS. KING: No, but that's all right.

17 CHAIRPERSON CROSS REID: Nonetheless, I
18 think that this is clearly a case of the applicant
19 attempting to bring into a more conforming use a
20 currently unconforming property, and developing the
21 property from four units to two units, and that
22 being the case, I would move that we approve this
23 application.

24 MS. KING: Second.

25 CHAIRPERSON CROSS REID: I think that
26 the lot is unique in the sense that it is a
27 substandard lot. It's a nonconforming lot, and for

1 the applicant to be able to use it as a matter of
2 right, with all of the practical difficulties, I
3 think that, if I'm not mistaken, we got no
4 opposition in this particular case --

5 MS. KING: None that I'm aware of.

6 CHAIRPERSON CROSS REID: -- that would
7 reflect the adverse impact, if any, of this
8 particular application having been approved -- if it
9 were approved, and, again, I don't think that it
10 impairs the integrity of the zoning map or the
11 zoning regulations.

12 I think that based on the foregoing,
13 that there is no reason why this application should
14 not be granted.

15 MS. KING: I concur.

16 CHAIRPERSON CROSS REID: All in favor?

17 (Chorus of ayes.)

18 CHAIRPERSON CROSS REID: Opposed?

19 (No response.)

20 MS. WITTEN ROSE: The staff will record
21 the vote as three to zero, with Ms. Reid, Ms. King,
22 and Mr. Parsons to grant the application.

23 MS. BAILEY: Madame Chair, is that a
24 summary order?

25 CHAIRPERSON CROSS REID: Yes, it would
26 be a summary order.

27 MS. WITTEN ROSE: That concludes the

1 matters that we have for the meeting.

2 CHAIRPERSON CROSS REID: Okay. Are we
3 ready for the hearing?

4 MS. KING: Adjourn the meeting and start
5 the hearing?

6 CHAIRPERSON CROSS REID: Yes. The
7 meeting is adjourned, and we will now begin our
8 hearing for July 22nd, 1998.

9 (Whereupon, at 9:54 a.m., the special
10 public meeting was adjourned.)