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1830 Belmont Road, NW
Washington, DC 20009

Meredith Moldenhauer, Chair
District of Columbia Board of Adjustment
441 Fourth Street NW, Suite 210 S
Washington, DC 20001

June 17, 2011

Re: BZA Appeal Case #18152;
Response to Applicant's Request for Special Public Meeting

Dear Chairperson Moldenhauer and Members of the Board:

I am writing as Intervenor in BZA Case #18152. This letter is in response to Chief Librarian Ginnie Cooper's letter dated June 9, 2010 to the BZA with regard to Case #18152.

BZA APPEAL AND LIBRARY CONSTRUCTION TIMELINE

As Mrs. Cooper notes in her letter dated June 9, 2011, this appeal, BZA Case #18152, was filed in a timely manner pursuant to BZA rules. However, her account of the timeline beyond that point is inaccurate and missing information.

The first time BZA Board members heard arguments about this appeal was on February 1, 2011, which coincided with DCPL construction teams excavating the rear yard behind the library in earnest. Even while Board members were hearing this appeal, library neighbors were being inundated with noise and uncontrolled amounts of toxic smoke. Having received no notice from either DCPL or DCRA about the impending noise and pollution by heavy machinery, including massive backhoes, library neighbors called the fire department and ended up having to vent air particulates out of their residential units. DCRA was notified about this incident and put on notice about other concerns, but these startled neighbors still have yet to receive any meaningful response.

On March 1, 2011, three BZA Board members, Chair Moldenhauer, Commissioner Sorg, and Commissioner Turnbull deliberated the appeal but could not reach a three-person majority consensus as required. By this point, back at the project site, DCPL construction teams had just begun piecing together the controversial library expansion -- starting with the basement-level rear wall at the farthest back corner of the lot. The BZA Chair had already re-iterated to the applicant that proceeding would be "at-risk," meaning that if the BZA decision supported the appeal, the project might require remediation, and if so, it would be at the library's expense. Appellee DCPL confirmed its understanding to the BZA but proceeded nonetheless.

On April 5, Commissioner Hinkle joined in deliberating the appeal. The arc of justice continued to bend towards the appellants, with Commissioner Hinkle and Commissioner Turnbull both voting to support the appeal. The resulting two-two vote, however, still failed the required three-person majority. The appeal was again delayed pending another commissioner being assigned to the case.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18152
EXHIBIT NO. 48

Board of Zoning Adjustment
District of Columbia
CASE NO. 18152
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Most recently, the scheduled June deliberation was postponed to July. Thus, more than eight months from when the appeal was filed, we still have no decision.

The Intervenors agree with Mrs. Cooper that an expedited hearing about this appeal is warranted. However, we disagree about the conclusions and the consequence of expediting.

Any claims Mrs. Cooper makes about "unnecessary expenditure of significant administrative resources" mischaracterize the need for meaningful deliberation by the BZA. This appeal is being pursued by concerned and affected DC residents as is their right and is merited by the distinct fire safety experience that has occurred around the library in the past several years, resulting in millions of dollars in property destroyed, displacing hundreds of residents, injuring many people, and costing the lives of two District residents.

Mrs. Cooper further claims that the BZA is working "contrary to the public good." Intervenors hold that DCPL's decision to ignore warnings of at-risk construction is contrary to the public good and is a disservice to the people of Ward One. Their move to push this project forward despite the appeal is putting the District at risk of further calamity in this neighborhood.

There has been absolutely no delay in the applicant's construction schedule. In fact, the Board will find quite the opposite. DCPL, led by Mrs. Cooper and the Board of Library Trustees, has moved forward at a hurried pace, paying a premium to their construction teams to do so. This was affirmed at a recent Board of Library Trustees meeting, where it was stated that the project is actually ahead of schedule and that construction costs are inflating.

By choosing this dangerous course, throwing safety and economy to the wind, DCPL has put itself at-risk and prejudiced itself by denying the validity and potential outcome of the appeal process that is before the BZA at this time.

RECENT VARIANCE REQUEST SHOWS MERIT OF APPEAL

Mrs. Cooper and DCPL have expressed their need for a variance for this library project through formal BZA mechanisms -- BZA Case #18240. This would seem to be an admission of the validity of the assertions maintained in the appeal.

Now therefore, regardless of the outcome of ANC-1D's BZA appeal #18152, the BZA must also hear arguments on the merit of a variance vis-a-vis zoning code as duly scheduled by the Board for July 19, 2011.

CONCLUSION

The Intervenors hold that the BZA must take the next few weeks to focus on how "rear yard" is rationally defined by City zoning officials and planners and generally accepted by the public. Further, they hold that Commissioners must also analyze why the rear-yard setback requirements exist in the first place and have been well established in District Zoning Code for quite some time -- to provide a basic level of safety in DC's urban setting, to provide a basic level of access to emergency equipment and personnel, to prevent overcrowding which eliminates quality of life, and to better contend with fire safety risks that can promulgate between city buildings.

The historic district which surrounds the Mount Pleasant Library is no stranger to deadly fire. The library's neighbors have born witness to serious emergencies along this historic residential corridor, some even with their lives, and acknowledge that rear yard setback requirements demonstrated by current DC Zoning code were established to deter escalation of risk to people and property. That is why this is such an important case to the appellants and the intervenors, who represent, all in all, thousands of Ward One residents, many of whom are neighbors around the library who are unnecessarily being put in danger through reckless disregard and outright abandonment of DC's basic zoning requirements and Construction codes.

We ask that BZA Commissioners provide an expedited decision in favor of the appellants so that DCRA can be ordered to stop this illegal construction.

Respectfully submitted,

Chris Otten
Inteviewer; ANC Commissioner 1C02 (2009-2010)