

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**APPEAL OF WALTER PARRS,
ET AL**

**BZA APPEAL NO. 18257
HEARING: NOVEMBER 1, 2011
DECISION: NOVEMBER 8, 2011
DECEMBER 6, 2011
ANC 2E**

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INTERVENOR'S RESPONSE TO MOTION FOR RECONSIDERATION

Pursuant to the order dated, filed and served on July 17, 2012 (the "Order"), the Board of Zoning Adjustment (the "Board") denied the appeal filed by Walter Parrs, Dorina G. Kanopka and Zdenek D. Nikodem (the "Appellants") which challenged a written determination of the Zoning Administrator (the "ZA") and the subsequent issuance of building permits for the installation of an elevator and construction of an elevator canopy at the rear of the subject property. The Appellants are dissatisfied with the Board's decision. But, the grounds set forth in their Motion for Reconsideration have already been argued, fully considered and rejected by the Board. Appellants' request to the Board to vacate and reverse the Order should be denied.

In their Motion for Reconsideration, the Appellants re-argue their position that there is something impermissible in the ZA's determination and that the elevator and other mechanical equipment on the roof of the building should be treated as accessory structures. However, in the Order, the Board carefully explained that the roof structures cannot be deemed accessory buildings because they do not meet any portion of the definition of an "accessory" building.¹

¹ An accessory building is defined as "a subordinate building located on the same lot as the main building, the use of which is incidental to the use of the main building." With regard to the elevator penthouse, the Board wrote, "First the definition contemplates an entirely separate 'building' from a principal building. However, there is nothing about this penthouse that would cause it to be considered a separate building. The elevator structure is connected to the floor below and is therefore part of the building. In addition, its function, moving furniture in and out of the store, is directly connected to the use of the building and therefore would not be 'incidental to the use of the main building.'"

The Appellants also argue that the Board erred in upholding the ZA's determination that the northern and eastern walls on the lot lines of the property are not exterior walls based on BZA Order No. 17109, *Appeal of Kalorama Citizens Association*. Specifically, the Appellants contend that the ruling in *Kalorama* was limited to party walls. However, as stated on Page 10 of the Order, the Board's decision does not alter the traditional interpretation of the term "exterior wall". Further, nothing in the Board's decision is contrary to the ruling in *Kalorama*.

In light of the foregoing, Intervenor urges the Board to deny the Appellants' request for reconsideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of August 2012, a copy of the Intervenor's Response to Motion for Consideration for **BZA Appeal No. 18257**, was sent to the following persons:

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