

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Appeal No. 18851 of Hill, Afkhami, and Uth

PROPERTY OWNER'S RESPONSE TO APPEAL

This Response to Appeal and Motion to Dismiss is filed on behalf of Mr. Rafael Romeu and Ms. Larissa Leony (“Owners”), the owners of the property located at 1536 T Street, NW (the “Property”). The Owners are a party to the Appeal pursuant to 11 DCMR 3199.1(a)(3).

The Appeal is in part a second motion for reconsideration of BZA Order No. 18725, as DCRA has noted, and in part a fishing expedition in which no actual error or zoning violation is identified. In both cases, it is an abuse of the BZA appeal process, meant to harass the Owners, and should be dismissed without hearing both for a failure to timely file and because the Appeal does not identify any violation of the Zoning Regulations.

I. Concurrence With DCRA Motion.

The Owners concur with DCRA’s Motion to Dismiss. The Appellant has no claim to appeal based on a potential appeal to the Court of Appeals of BZA Order No. 18725. An appeal must specifically allege an error and must reference the relevant Sections of the Zoning Regulations. Appellant claims to be filing the Appeal to “negative any possible inference that Opponents have abandoned their opposition to the proposed deck construction...”. The Opponents need not fear the Owners ever perceiving such an inference from this group of Appellants, and, at any rate, that is not a basis on which to file an appeal to the BZA.

II. Not Timely Filed.

The Appeal is not timely filed because any zoning administrator decisions being challenged were first made – and appealed by Opponents – over a year ago, in the first building permit application for the subject deck.

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III. Failure to Cite a Violation.

The Appellant has not identified any specific section of the Zoning Regulations as having been violated. From the eleven (11) paragraphs in the Statement of Appellants, Paragraphs No. 1 and 7 make general accusations of a lack of harmony and lack of compliance with the DC Overlay. No actual specific allegations of error are identified (and none are present). Paragraphs No. 2, 3, 4, 5, 6, and 10 all amount to a request for reconsideration of BZA Order No. 18725, and do not allege any error by the Zoning Administrator in enforcing the Zoning Regulations. Paragraphs No. 8 and 9 broadly allege non-compliance with parking provisions, but never actually mention the violation or how the Zoning Administrator erred. At any rate, the deck is not a carport, and there is no required parking on the Property. Finally, Paragraph 11 mentions a building code complaint, for which the Appellants have filed a separate appeal to OAH.

IV. Conclusion.

For the above reasons, the Appeal should be dismissed for failure to timely file and for failure to cite any violation of the Zoning Regulations.

Respectfully Submitted,



Martin P. Sullivan

CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2014, a copy of the attached Response to Appeal was delivered via E-mail to following:

Attorney for Appellants:

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October 30, 2014

Lloyd Jordan, Chairman
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: BZA Appeal No. 18851 of Hill, Afkhami, and Uth

Dear Chairman Jordan and Members of the Board:

As the owner of 1536 T Street, NW, the property which is the subject of BZA Appeal No. 18851 (the "Appeal"), I hereby authorize Sullivan & Barros, LLP, to represent me in all proceedings before the D.C. Board of Zoning Adjustment concerning the Appeal.

Sincerely,



Rafael Romeu