

**Spring Valley-Wesley Heights Citizens Association
c/o Michael Mazzuchi
4430 Macomb St, NW
Washington DC 20016**

December 12, 2014

VIA IZIS

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

Re: BZA Appeal No. 18857
Opposition to DCRA's Motion to Hold Decision in Abeyance

Dear Chairman Jordan and Members of the Board:

Spring Valley-Wesley Heights Citizens Association (“SVWHCA”) hereby opposes DCRA’s motion that this Board hold in abeyance its scheduled December 16 ruling in this matter. As noted by DCRA, American University (“AU”) has filed a request that the Zoning Commission approve a modification to AU’s campus plan to allow the two-story underground garage that is the subject of the permit challenged in SVWHCA’s appeal to this Board, and a hearing will be held on February 2. But DCRA is plainly wrong when it states that the Zoning Commission “will consider the exact issue that is the subject of the BZA Appeal No. 1885” at that hearing. The Zoning Commission will consider the merits of AU’s request for modification of the campus plan; SVWHCA and ANC3D’s appeal concerns whether the permit currently outstanding was validly issued by the Zoning Administrator based on the existing plans. AU’s request for modification from the Zoning Commission demonstrates that the existing permit was not validly issued; accordingly, SVWHCA’s appeal should be granted. A proper permit can of course quickly be issued assuming the Zoning Commission rules favorably on AU’s modification request, but there is no interest of DCRA or of public policy that would be served by leaving the Zoning Administrator’s erroneous action in place in the meantime.

Instead, this Board should make clear that only this Board and the Zoning Commission, and not the Zoning Administrator, can approve modifications to plans submitted and approved under the BZA rules. Where the Zoning Administrator has issued a permit improperly -- as it did here -- its action should not be left in place pending a modification proceeding. The approach DCRA suggests would actually encourage applicants who need to modify their plans to nevertheless seek a permit from the Zoning Administrator, knowing that if the permit is challenged, the applicant can then request modification and keep its permit while the modification procedure is pending. Such a result would turn proper procedure on its head, and would ensure that the issues presented by this case come before this Board over and over again in other cases. Instead, this Board should grant SVWHCA and ANC3D’s appeal and create a clear rule in this area, pending any future rulemaking in this regard by the Zoning Commission. SVWHCA requests that the Board rule on December 16th as planned.

Respectfully submitted,



Michael Mazzuchi

President, Spring Valley-Wesley Heights Citizens Association

Board of Zoning Adjustment

District of Columbia

CASE NO.18857

EXHIBIT NO.27

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2014 a copy of the attached enclosure was delivered via e-mail to the following:

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