

DC Board of Zoning Adjustment

RE: BZA Case #18888; Appeal of the Building Permit # 1309151

December 30, 2014

Adams Morgan for Reasonable Development (AMFRD) is an unincorporated nonprofit association located in Ward 1 of the District of Columbia. AMFRD participating members reside or work in the neighborhood known as Adams Morgan, parts of which are a Neighborhood Conservation Area. Several AMFRD participants are directly affected by the project being built at 1700 Columbia Road. *See Exhibit #30 in BZA Case #18506 and see Attachment A.*

AMFRD was granted party status in the related BZA Case #18506, where the issues raised in this appeal were originally highlighted. AMFRD was subsequently granted party status by the highest Court in the District of Columbia in the appeal of the decision in BZA Case #18506, and won partial adjudication regarding the roof structures and lack of compliance with the DC Zoning Regulations. And most recently, AMFRD was granted party status in a case before the Office of Administrative Hearings Case 2014-DCRA-00050.

AMFRD does not oppose Ontario Residential, LLC's request to intervene in BZA Case #18888.

AMFRD does oppose Ontario Residential LLC's request to dismiss BZA Case #18888 for being untimely. The request for dismissal is simply not founded by the evidence on the record.

AMFRD is an all-volunteer unincorporated nonprofit. It neither has the time nor resources to check DCRA permit activity on a "daily" basis and Intervenor argues. Instead, it is clear, AMFRD received effective notice of the issuance of the building permit on July 26, 2014, through regular postmail as tracked by the US Post Office. *See Attachment 2 of Exhibit #2 in the record of BZA Case #18888.*

Therefore, AMFRD's appeal was timely filed within the 60 days required by the zoning regulations.

APPEAL - CLAIMS

I) Rear Yard

Per Exhibit #2 on the record in BZA Case #18888, Ontario Residential LLC intends to build a garage as part of their mixed commercial and residential project. The garage structure and ramp occupies a large portion of the required rear yard.

Petitioners submit for BZA Commissioners evidence of the project design drawings showing the location of the rear yard. *See Attachment B.*

Further, Petitioners point Commissioners to Exhibit #26 in the inter-related BZA Case #18506. This is the DC Office of Planning report dated February 19, 2013, which refers to the rear yard on page 3, under the "Office of Planning Analysis", subsection (a)(i), where the report states, "Vehicular access to the garage would be from 17th Street and the [garage] ramp would occupy almost the entire length of the property along the south side of the lot reducing the size of the triangularly shaped garage."

The decision to place this garage structure in the proposed location contradicts, on its face, the definition of rear yard in 11-DCMR-199, and thus as follows, the proposed plans contradict 11-DCMR-774.1 which requires a depth of 15 feet between the rear lot line and and subject structure as the unoccupied rear yard.

Having the garage and ramp structure located where it is will bring unwarranted noise and noxious odors and other under-evaluated adverse impacts to the surrounding residential properties.

II) Rooftop Structures

The Petitioner now bring claim that the Zoning Administrator has incorrectly determined that the rooftop structures for the subject project meets the standards of the DC Zoning Regulations.

This is an additional issue that was not raised originally due to lack of information at the time of the appeal filing. It was only recently, after AMFRD was granted party status and heard at the Office of Administrative Hearings in OAH Case 2014-DCRA-00050, that the rationale and evidence was made publicly available by which the Zoning Administrator approved the building permit, as we believe in error.

Thus, AMFRD must now raise the issue of rooftop structures to BZA Commissioners in BZA Case #18888 as the plans depict rooftop structure(s) which are in contradiction to the DC Zoning Regulations.

AMFRD submits to BZA Commissioners design plans showing, on its face, that Ontario Residential LLC is proposing to build multiple rooftop structures at varying heights. *See Attachment C.*

It requires no expert opinion to show that the proposed rooftop plan is in direct contradiction of DC Zoning Regulations 11-DCMR-411.3, 11-DCMR-411.5, and 11-DCMR-411.6.

Presupposing that Ontario Residential, LLC argues that the connecting rooftop lattice-work and embellishment, plus walls connecting the multiple rooftop structures, all come together to form one rooftop structure, it is clear by the DC Zoning Regulations that the area surrounded by the

one rooftop structure and its accompanying walls must be measured.

11-411.14 Areas within curtain walls without a roof used where needed to give the appearance of one (1) structure shall not be counted in floor area ratio, but shall be computed as a roof structure to determine if they comply with § 411.8.

11-411.8 Roof structures shall not exceed one-third (1/3) of the total roof area for those districts where there is a limitation on the number of stories.

AMFRD has submitted the design plans showing that the area surrounding by a one rooftop-structure with accompanying walls far exceeds what the zoning regulations allow. *See Attachment C.*

The rooftop structures as presently contemplated not only exceed what is allowed by the Zoning Regulations, they will adversely impact surrounding privacy, and will project levels of under-evaluated noise towards the surrounding residential buildings.

Submitted to the BZA through IZIS on this the 30th day of December, 2014.

Respectfully,

s/n/ Chris Otten

Adams Morgan for Reasonable Development

CERTIFICATE OF SERVICE

I, Chris Otten, attest that on behalf of Adams Morgan for Reasonable Development, I sent a copy of the above Pre-Hearing filing in BZA Case #18888 to the BZA as follows:

Board of Zoning Adjustment
Through the online IZIS system
and to Melinda Bolling, Esq.
melinda.bolling@dc.gov

Ontario Residential, LLC
c/o Christine Roddy, Esq
CRoddy@goulstonstorrs.com

ANC-1C, Billy Simpson, Chair
simpson_billy@yahoo.com

As signed,
s/n/ Chris Otten
Adams Morgan for Reasonable Development