

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal of John Stokes

BZA Appeal 18991

RESPONDENT'S RESPONSE TO APPELLANT'S MOTION FOR EXTENSION

Appellant filed a Motion for an Extension on June 25, 2015. In response, Respondent, the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”), makes the following two comments for the record:

- i) DCRA provided full plans and plat to Appellant on May 21, 2015. These plans are **identical** to the final plans (the “**Approved Plans**”) approved with building permit B1506179 (the “**Revised Permit**”), which was issued on June 24, 2015 – with one minor exception. This was to correct the 5.625 inch encroachment onto Appellant’s property that ran for 10.3 feet as an extension of the existing party wall – an encroachment totaling less than five square feet and which is not under the jurisdiction of the Zoning Regulations or the Board. This revision only affected the following five sheets: A000, A0001, A201, A202 and A203. Furthermore, the minor scope of the revisions is clear since the revisions were identified by bubbles and so are evident without the need of a detailed comparison with the plans provided Appellant by DCRA on May 21, 2015.

DCRA required the revision correcting the encroachment be incorporated into the plans before issuing the Revised Permit instead of proposing this correction be incorporated as a condition of a Board decision. This required a re-drawing and a re-review of the plans and this delayed the issuance of the Revised Permit. DCRA understands that Appellant desires to review the approved plans, but rejects the implication that major revisions to the plans were made at the last minute.

Appellant had 20 days to prepare his submission with the final plans that are identical to the Approved Plans except for the minor revision to five sheets to correct the encroachment noted by Appellant. This minor revision only addressed one of Appellant’s claims, and indeed recognized it as valid. The only effect of this revision on Appellant’s appeal is to have simplified it by ceding the claim – the opposite of an injury to Appellant’s case.

ii) DCRA appears to have erred in understanding that the deadline for submission was June 22, 2015. DCRA apologizes for this unintentional error, but respectfully requests that the Board consider if it is necessary to have Appellant file an additional reply, given that the normal procedure does not require a written reply by Appellant before the hearing. DCRA believes that there is no injury to Appellant in waiving the required reply as Appellant retains the right to raise any issues it has at the June 30, 2015 scheduled hearing.

This case has already been delayed by six weeks in order to provide Appellant with the opportunity to clarify the generalized and unspecific claims made in Appellant's original appeal. DCRA consented to this prior grant of extra time for the sole benefit of Appellant instead of moving for summary judgment on Appellant's original vague claims. This provided Appellant with the opportunity to revise the initial appeal with the benefit of the responses of DCRA and the Permit Holder. Since most of Appellant's revised claims mirrored Appellant's initial claims, albeit with more specifics, there should be no surprises for Appellant in the June 22, 2015 Pre-Hearing Statements of DCRA and the Permit Holder, which largely restated the original responses by DCRA and the Permit Holder to Appellant's initial generalized claims.

Therefore, DCRA opposes Appellant's Motion for Extension, and respectfully requests that the Board deny this motion and keep the scheduled hearing on June 30, 2015.

Respectfully submitted,
CHARLES THOMAS
Acting General Counsel
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Date: June 25, 2015


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CERTIFICATE OF SERVICE

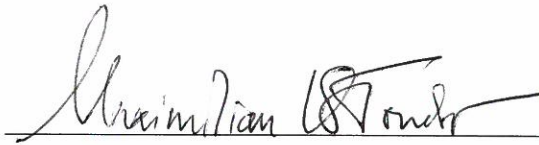
I hereby certify that on this 25th day of June 2015, a copy of the foregoing Pre-Hearing Statement was served via electronic mail to:

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