

Adams Morgan for Reasonable Development
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May 11, 2015
Re: BZA Case #18999

Adams Morgan for Reasonable Development stands with the neighbors of Ontario Road NW and the Adams Morgan ANC in BZA Case #18999.

It is clear that the fundamental issues of calculating the most traditional zoning metrics like lot occupancy, FAR and parking requirements have been so clearly skewed in this matter, that they cannot be simply pushed aside for the convenience of the developer at the expense of our elected Adams Morgan ANC, and the directly affected community.

Further, the efficacy of the plats and other documents submitted for review by the permit applicants in this case is highly questionable and dubious.

DCRA ought to have a much higher level of expected details, verifiable and true statements, and overall quality of the construction documents submitted by building permit applicants.

It is a fact that Building Permit #B140849 finalized DCRA's review of the permit application on January 15, 2015. See Exhibit #1.

For all intents and purposes, the building permit in this case was publicly considered under review until this date, at which time DCRA's Permitting Officer chose to approve all of DCRA's sub-agency's individual reviews and decisions. In this case both Melinda Bolling and Patrice Derricott in their capacities at DCRA were the officers signing for the approval of this building permit.

That is, DCRA's Permitting Officers set forth in writing that he/she agreed with the efficacy and review of all of DCRA's sub-agencies and approved the issuance of the building permit. Some of the DCRA sub-agencies working on permit review include DDOT, DDOE, DC Water, the DC Fire Department, DCRA's Structural Engineer, and the DC Zoning Administrator, among others.

Simply put, the approval of the review of all of DCRA's sub-agency's is demonstrated by the public issuance of an official DCRA permit, in this case on January 15, 2015.

This is important because it is not difficult to understand the interdependence of each sub-agency review and subsequent findings. For, it is while a permit application is under review by each DCRA sub-agency, that one of these sub-agency's findings may indeed affect another sub-agency's review and findings and possible decision.

That is to say, until DCRA Permitting Officials approves, signs and publishes an official building permit, the public simply doesn't know that a full inter-dependent review of all of DCRA's sub-agencies has been completed, and then made official by DCRA's issuance of the permit, thus making all of the reviews of each sub-agency final.

So while it may be true that the Zoning Administrator (ZA) seemed to have made some decisions in this case sometime in December 2014, those decisions by the ZA most likely could have been changed or shifted by the review and findings of another DCRA sub-agency either before DCRA's Permitting Officer made the final decision to issue the building permit, or in this case even after the issuance of the permit.

This is proven and born out by Exhibit #20 on the record, where on May 8, 2015, the lawyers for DCRA sent note that DCRA's Permitting Officials did indeed choose to reverse the review and decision of the Zoning Administrator, one of DCRA's sub-agencies, even after issuance of the permit.

Therefore, this case clearly demonstrates that the jurisdictional issue of timing can and must be calculated from the date when DCRA Permitting Officials publicly approve and issue a building permit, for up until that date no review or decision by the Zoning Administrator, or any other DCRA sub-agency can be considered a final administrative decision starting the appeal time clock.

In support of the appellants in BZA Case #18999 – the Ontario Road neighbors and the Adams Morgan ANC – Adams Morgan for Reasonable Development respectfully submits this testimony.

Respectfully,

s/n/ Chris Otten

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