Form 150
(Revised 04/29/02)

BZA Application
Case No. ~~No. 16836~~

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

MOTION

Notice: See other side of motion form for instructions.

Applicant, Appellant, Appellee, Party, Intervener	vs.	Applicant, Appellant, Appellee, Party, Intervener
The Washington Home		Citizens Concerned About the

Motion of: Home's Expansion ("CCHE")
(state what you want the Board to do)

Reconsider its decision to bifurcate the proceeding into a July 9 hearing on construction of an addition and a September 10 hearing on construction of a parking lot; note objection to such a split of proceedings.

RECEIVED
D.C. BOARD OF ZONING ADJUSTMENT
2002 JUL -2 PM 12:07

Points and Authorities:
(state the each and every reason why the Board should grant your motion, including relevant references to the Zoning Regulations or Map)

1. The application does not bifurcate these issues because they are part and parcel of an expansion effort in a residential neighborhood.
2. CCHE has prepared its presentation on the basis of a single application.
3. It is not fair, constitutes unfair surprise, and is procedurally incorrect to change the nature of the proceedings in mid-stream. 4. See attached papers.

CERTIFICATE OF SERVICE

I hereby certify that on this (date) 2 day of (month) July, (year) 2002, I served a copy of the forgoing Motion on each entity that has requested party status; or entities that have be granted party status – on the above referenced BZA case via

☒ First-class mail	☐ Hand delivery	☐ Other (specify)	(ATTACH A LIST OF PARTIES SERVED)

Signature:	Applicant*		
Print Name:	Jonathan P. Graham	Firm/Organization	CCHE
Address:	725 12th St., N.W., Washington, D.C. 20005		

** In the event an authorized agent files a motion on the behalf of the maker of the motion, a letter signed by the maker of the motion authorizing the agent to act on his/her behalf shall accompany the notice of application.*

To be notified of hearing and decision:
(Maker of Motion or Authorized Agent)*

BZA
Case No. 16836
Exhibit No. 59

Name:	Jonathan P. Graham				
Address:	725 12th St., N.W., Washington, D.C. 20005				
Phone No.:	202/434-5026	Fax No.:	202/434-5618	E-Mail:	jgraham@wc.com

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THIS FORM WILL NOT BE ACCEPTED.

Board of Zoning Adjustment
District of Columbia
CASE NO.16836
EXHIBIT NO.59

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

In Re: Application by the Washington Home for a special exception pursuant to § 219 of the Zoning Regulations to allow the construction of an addition to the Hospice of Washington accommodating four (4) additional hospice beds for an existing 201-bed health care facility in an R-1-B Zoning District and the enlargement of the existing parking lot from seventy-five (75) to one hundred seventy-three (173) parking spaces **Subject Property:** **Lot 818, Square 1825** **3720 Upton Street, N.W.**	**BZA Application No. 16836**

CCHE'S OBJECTION TO BIFURCATION OF HEARING AND
MOTION FOR RECONSIDERATION OF THE DECISION TO BIFURCATE

The Citizens Concerned about the Home's Expansion, ("CCHE") hereby object to the bifurcation of the hearing on The Washington Home's ("TWH") application to allow construction of an addition and enlarge its parking lot. On June 25, 2002, at the conclusion of the applicant's case on the construction of the addition and the parking lot, the Board decided, at the urging of the applicant, that in light of various scheduling conflicts it would bifurcate the remainder of the case into a July 9, 2002 hearing on the construction of the addition and a

September 10, 2002 hearing on construction of the parking lot.[1] CCHE objects to bifurcation of the proceeding as a matter of substance and of procedure.

From the substantive perspective, TWH's application for an addition has been explicitly tied to its application for more parking spaces and, in fact, is one of the bases for requesting more parking. One of the issues the Board must consider here is TWH's relentless push to expand over the past 15 years notwithstanding its location in a residential neighborhood. The request for an addition and a dramatically enlarged parking lot should be considered together because they constitute a joint push by TWH that cumulatively impacts the character and quality of life in the residential neighborhood in which TWH is seeking to expand.

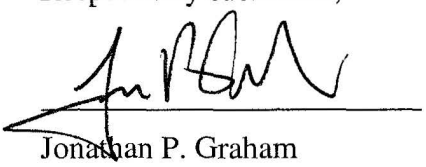
In addition, it is not procedurally proper to bifurcate one portion of an application for a special exception from another part. The applicant itself believed the construction of an addition and the construction of the parking lot are tied together. The applicant's entire case has been presented that way. CCHE has organized its response to TWH's case on that basis. Nor do

---

[1] At the hearing, TWH suggested that it was appropriate to proceed on July 9, 2002, and ignore the prior professional commitment of Jonathan Graham, CCHE's representative at the hearing. The record reflects, however, that the reason the continuation of the hearing from April was delayed from June 18 to June 25 was that Mr. Keys, the lawyer for applicant TWH, was going to be out of the country on vacation, and was thus unavailable. See April 2, 2002 Hearing Transcript at 152-153. CCHE did not object to that delay occasioned by TWH's scheduling problem. Accordingly, and properly, the hearing was scheduled to resume on June 25 instead of June 18 to accommodate Mr. Keys' schedule. Then, at the continuing hearing on June 25, TWH spent the entire time on its case. Because TWH had previously indicated it would have only three witnesses to testify after the cross-examination of its parking analyst (because its first fact witness, Ms. O'Connor had already completed her testimony), CCHE assumed it would have an opportunity to present its case at the hearing too. See id. at 62 (TWH stating that it had a total of five witnesses, three of whom were experts). Instead, when the hearing was resumed, TWH put on five more witnesses for a total of seven – a previously unmentioned expert who addressed stormwater (Mr. Long), an architect (Ms. Dickeson), a construction manager (Mr. Armentrout), a landscaper (Ms. Tien), and a facilities manager (Mr. McGee) who presented parking counts redundant to that of the parking analyst. In light of this record, it is hardly fair for applicant, who has taken two full sessions to present its case, to suggest that the schedule of CCHE's representative should be ignored and the case should be bifurcated.

the laws, regulations, and rules governing this proceeding permit mid-stream bifurcation of linked issues. It constitutes unfair surprise and a lack of appropriate process to change the nature of the proceeding in mid-course.

Respectfully submitted,



Jonathan P. Graham

Representative of Citizen's Concerned About the Home's Expansion

Dated: July 2, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of July 2002, a true and correct copy of the foregoing CCHE's Objection to Bifurcation of Hearing and Motion for Reconsideration of the Decision To Bifurcate was served by first-class mail, postage prepaid, on:

George R. Keys, Jr. Esq.
Jordan Keys & Jessamy, LLP
1400 Sixteenth Street, N.W.
Suite 700
Washington, D.C. 20036-2217

and by first-class mail, postage prepaid, on:

Ms. Ellen McCarthy
Office of Planning
801 North Capitol Street, N.E.
Suite 4000
Washington, D.C. 20002

Mr. Alan Bergstein
Office of Corporation Counsel
1441 4th St. N.W.
Sixth Floor
Washington, D.C. 20001

Jonathan P. Graham