

***Before the Board of Zoning Adjustment of the District of Columbia
Appeal of Kalorama Citizens Association
BZA Appeal No. 17109
February 17, 2004***

Appellant's submission: Chronology of the Case

On **December 26, 2002**, the developers obtained a demolition permit for "Alteration and Repair – Interior Demolition/Excavation only".

On **January 31, 2003** they applied to the Public Space Committee for a curb cut authorization.

On **March 11, 2003**, they obtained a permit for a conversion of the building to 5 apartments, 5 stories plus basement and "attic", attributing 39% of costs to repair and renovation and 61% to new construction. This permit was not displayed on the building until September of 2003; the demolition permit was displayed, only inside the building, at some point prior to the display of the March permit.

In **March/April, 2003** the developers removed the front berm, approximately 5 feet in height, and enlarged a ground-level window opening apparently to accommodate a planned driveway and garage.

On **March 19, 2003**, they came to the ANC, at a meeting of its Zoning, Planning and Transportation Committee, with request for support for a curb-cut to permit access to a proposed inside parking space with access through the front bay. They displayed limited drawings in connection with their request but did not address the scale of the building relative to surrounding structures. In response to questions they indicated that they proposed to add one story.

The curb-cut request was disapproved by the ANC on **April 2, 2003**. (The proposal was subsequently dropped.)

As the project proceeded through the **spring and summer of 2003**, the building was totally demolished except for the remaining portion of the façade, and newly constructed from the ground up—and up, and up, and up. By **early September** it had evolved into a narrow towering structure, shockingly out of scale with its neighbors and visible from distant points in Adams Morgan (see Appellant's Statement, exhibit 4), the subject of widespread dismay in the area and comment in the local press (*The Intowner*—see exhibit 5).

In **early September, 2003** KCA attempted to see and obtain copies of the plans in person at DCRA, and was refused on various grounds (including alleged filing disarray and inability to locate the file).

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On **September 10, 2003**, KCA wrote DCRA complaining of DCRA's denial of access to the plans and again asking for the plans, noting possible building height violations, raising questions about the possible exclusion of the basement from FAR calculations, and urging that a stop work order be issued.

DCRA issued a stop work order on **September 12, 2003**.

A document in the DCRA case file dated **September 15, 2003**, entitled "Fact Sheet 1819 Belmont Street, NW", of which a copy was later supplied to KCA, states: "Based on inspections and review of the building plans, it was determined that the demolition exceeded the scope of the permit, and that the proposed building height exceeds the 70 feet maximum allowable." It also states: "The developer will transmit a letter to BLRA asking for permission to brace the existing walls against the anticipated hurricane later the week of 9/15/03."

On **September 16, 2003**, still lacking access to the plans and thus the ability to determine in what respects, if any, the project did not comply with the Zoning Regulations, in order to determine whether an appeal should be filed, KCA filed a Notice of Intent to Appeal with the Office of Zoning.

Shortly thereafter, KCA was orally informed by DCRA that it expected that new, revised permits relating to the project would be issued.

On **September 22, 2003**, KCA submitted a Freedom of Information Act request for the plans to DCRA.

Continuing neighborhood concerns were discussed in a meeting of the KCA on **September 29** and the ANC on **October 1** (in both of which the developers participated). After the ANC meeting the KCA Zoning Chair asked the developers for a copy of the plans; the request was refused.

On **September 29, 2003**, DCRA wrote KCA asking for assurance that KCA would pay the cost of producing the documents requested (KCA provided that assurance), and stating that the statutory 10-day deadline for response to FOIA requests "is suspended until all processing issues are resolved".

On **September 29, 2003** the developers submitted a permit application, and on **October 6 and 16, 2003**, received new permits on the basis of plans reflecting certain revisions in the project. These included revised FAR calculations, removing the front roof parapet and making other adjustments so as to reduce the maximum height of the roof to 70 feet 0 inches, reducing the footprint but not the height of the penthouse roof structure covering a stairway opening.

On or about **October 17, 2003** DCRA handed KCA copies of the plans, lacking certain important documents. Thereafter KCA received a reply from DCRA, dated

October 23, 2003, to the September 22 FOIA request, indicating that the documents had been located and copies could be picked up.

KCA filed its appeal on **November 4, 2003**.

During the period **November 5 through November 13, 2003**, KCA communicated several times with DCRA, directly and through the office of Councilmember Jim Graham, in an effort to obtain the documents not yet received.

On **January 22, 2004**, KCA wrote DCRA by fax, again requesting the missing documents.

On **February 8, 2004**, KCA filed a motion before the Board of Zoning Adjustment to have the Board cause DCRA to supply KCA with the missing documents.

On **February 12 and 16**, DCRA supplied the missing documents.