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May 27, 2016

Members of the Board of Zoning Adjustment
C/O Clifford Moy
Board of Zoning Adjustment
Office of Zoning
441 4th Street NW
Washington, DC 20001

Re: Case No 19285 – 2619 Wisconsin Ave NW

Dear Board Members,

On behalf of the affected residents who have filed to appear as of right (Parties of Right) in opposition to the application of the Marital Trust, I write to request this application be dismissed or held in suspension. The application seeks a special exception to permit an emergency shelter (the Shelter”) for 38 families (approximately 134 people) in an R-1-B square, which already contains one shelter. The application should be dismissed because: (1) the application is not ripe for adjudication until and unless Council approves building the Shelter on the site; (2) the application was improperly filed during a moratorium on new cases before the Bureau of Zoning Adjustment; and (3) the application is not ripe until a raze permit is granted for the existing structure at 2619 Wisconsin Avenue NW.

The application should be dismissed or held in suspension until the site is approved for the Shelter by the Council of the District of Columbia.

The Mayor has proposed to build the Shelter at 2619 Wisconsin Ave NW, but the Council of the District of Columbia has not yet approved the site. On May 17, 2016, the DC Council approved a bill with an alternative site on city-owned property at 3320 Idaho Ave NW. The second reading of this bill is scheduled for May 31, 2016.

Under these circumstances, whether a special exception could be granted for the Shelter at 2619 Wisconsin Avenue NW is purely speculative and the application is an informal request prohibited under Section 3100.7. The application will be ripe for review only when and if the Council of the District of Columbia approves the application site and funding for it. The application should, therefore, be dismissed or held in abeyance, until the DC Council approves the construction of the Shelter at 2619 Wisconsin Ave NW.

The application should be dismissed until a raze permit is granted for the existing structure at 2619 Wisconsin Avenue NW.

The Board should not adjudicate an application for special exception until and unless it is assured that the proposed use and structure could proceed on the site. The structure proposed in this application could move forward until and unless a raze permit is granted for the existing structure of 2619 Wisconsin Ave NW. To date, no raze permit has been requested. The process for granting a raze permit requires notice to and, if desired, input by both the Advisory Neighborhood Commission and the Historic Preservation Review Board, plus clearance from the DC Department of the Environment, Department of Transportation, and several utility agencies. This Board should not short circuit or prejudice that process by acting on this application prior to those entities reviewing and DCRA granting a permit to raze the existing structure. The application should be dismissed and refiled after the applicant has obtained the necessary raze permit.

The application should be dismissed as improperly filed during a moratorium on new cases before the Bureau of Zoning Adjustment.

This Board has issued a moratorium on most new cases during the month of May. The announcement on IZIS states :

Effective May 1st, 2016 at 12:01 AM (Eastern Time), and lasting through the duration of the month of May, the Board of Zoning Adjustment is not accepting new applications. Only applications that include certification by a D.C. licensed attorney or architect stating that the provisions of the Zoning Regulations currently in place are less restrictive with respect to the proposed structure or use than the 2016 Regulations will be accepted. If you are filing a case that fits this exception, please contact dcz@dc.gov or 202.727.6311 to proceed with your filing. Starting June 1, 2016, the Office of Zoning will begin accepting all types of applications under the Zoning Regulations of 2016.

According to IZIS, the initial documents in this case were filed on May 4, 2016, after the moratorium had started. This case does not contain the requisite certification. Nor could it have contained such certification. The issues in this case are not affected by the changes in the regulations that go into effect in September. Under the moratorium, the application should be dismissed and refiled in June, when the moratorium has come to an end.

Respectfully submitted,



Paul A. Cunningham

Counsel for Parties of Right