

February 7, 2018

**via IZIS**

Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

**Re: BZA Application No. 19659 of FSMB; Requested Submission**

Dear Members of the Board:

At the hearing on January 31, 2018, the Board requested the Applicant supplement the record with the following:

1. GFA Analysis
2. Description of Differences in Floor Area
3. Description of Employee Program and Possible Expansion
4. Rear Loading Situation
5. FSMB Smoking Policy
6. Articles of Incorporation
7. Response on Halcyon House Comment
8. Expected Visitor Information
9. Meeting Schedule/Descriptions

The Applicant is also including an updated Self-Certification form.

1. GFA Analysis.

The Applicant originally had Wingate Hughes perform a feasibility study in October 2017.<sup>1</sup> Initially the Applicant requested variance relief from the requirement that the building have 10,000 square feet of gross floor area, on the advice of counsel, who believed simply from observing the front of the Building, that little or none of the lower level would be counted towards GFA. After applying for the relief, counsel inspected the Building's interior, and the rear of the Property.<sup>2</sup> What counsel discovered was that (i) the entire first floor of the Building is elevated above the entrance foyer level; and (ii) there is a significant decline in grade

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<sup>1</sup> Exhibit 9 in the case record.

<sup>2</sup> And also noted a Finding of Fact from BZA Order No. 15555 that stated that 2118 LeRoy had a Gross Floor Area exceeding 10,000 square feet.

elevation toward the rear of the Property. The Applicant then had CAS Engineering conduct a topographical survey and GFA analysis for the lower level. The survey revealed that 2,703.9 square feet of the basement area is indeed included in Gross Floor Area. In fact, this number is expected to increase if the Zoning Commission approves the currently pending text amendment, Case No. 17-18.

2. Floor Area Differences.

During the hearing, the Opposition raised an issue about the small difference in lower-level floor areas between a Wingate Hughes drawing (3,131.91 sf) and the later letter from Wingate Hughes noting GFA amounts (3,258.20). The difference of about 127 square feet is attributed to a small section of the lower level, near what is described on the Wingate Hughes drawing as “crawl space.” The difference simply represents an amount of floor area that was mistakenly not included the floor area calculation by Wingate Hughes. The space was correctly included by CAS Engineering in its more technical and detailed engineering review of the lower-level GFA, see Exhibit A. This is exactly why the Applicant commissioned the topographical survey and GFA analysis from CAS Engineering, a very reputable engineering firm with considerable zoning experience and expertise in the District. Wingate Hughes then based its overall calculation of Gross Floor Area on the lower-level GFA analysis performed by CAS Engineering.

3. Employee Program and Expansion.

The FSMB currently has eight (8) full-time employees in Washington, DC. Because of the expanding nature of its educational programming with federal partners such as the DEA and Department of Health and Human Services, the FSMB has discussed plans on either hiring additional educational staff or relocating the individuals currently serving in educational roles to the Washington, DC office. The job descriptions of the positions that may shift are attached as Exhibit B.

The FSMB has agreed in principle to a condition of 15 full-time employees, but asks for modification to allow for 5 temporary employees. Temporary employee may be defined as a (1) FSMB employee whose principal place of employment is the FSMB office in Euless, Texas or (2) an individual providing services to the FSMB for a period not to exceed three months. At any rate, the Applicant believes that it has made the case that twenty (20) employees will not tend to adversely affect the use of neighboring properties.

4. Rear Loading Platform.

At the rear of the Property is currently a residential-type garage which is actually part of the Building. As such, the current configuration lends itself to efficient loading where the garage can be used for unloading with direct access into the Building. The Applicant does not expect to need any material loading function once the Building is renovated and stocked with furniture.

5. FSMB Smoking Policy.

FSMB employees are subject to the smoking prohibitions set forth in the FSMB Employee Handbook, attached hereto as Exhibit C. The employee handbook prohibits smoking from “All Federation buildings, parking lots and property, including property surrounding FSMB buildings.”

In order to address neighborhood concerns regarding smoking, the FSMB will accept the following as a condition to approval of the exception application: ‘Smoking is prohibited at the subject property, including its garage, outdoor space, and within 200 feet of the subject property.’

6. Articles of Incorporation.

The full Articles of Incorporation are included with this submission as Exhibit D.

7. Halcyon House.

At the hearing, the Opponent noted that BZA Order No. 18604 for the Halcyon House was another BZA Order approving a nonprofit use which provided a condition for a 5-year time-limit. The Applicant appreciates that the Opponent has referenced this Order as a possible guide for the Board in approving conditions of approval for FSMB, should the Board so approve. There is a five-year time limit for the Halcyon House case. But this was levied in conjunction with conditions that approved *daily* events, including Saturdays and Sundays, which were expected to have hundreds of guests on multiple occasions, in an area which is every bit as residential as LeRoy Place. If the FSMB was asking to hold these types of events or was otherwise proposing any use at all beyond the benign office use being proposed, it might expect to be subject to a time limit. As it is, the Applicant believes that the current proposal, with the proposed conditions, do not warrant a time limit.

8. Expected Level of Visitors.

The FSMB’s Washington, DC, office entertains very few guests. Since the office does not issue licenses or hear disciplinary proceedings, there is very little ‘walk-up’ traffic. Most guests are invited in the course of routine business interactions. FSMB does not anticipate or plan to host any overnight guests. The following represents the meetings over the past three months for which the DC conference room was reserved and used to host guests for meetings. The Applicant would expect the level of guest visits to continue at a similar pace as this.

- November 14th – 2 guests to discuss Board of Directors Advocacy and Hill Day planning
- November 17th – 2 guests with a software vendor who were training staff on use of software
- December 6th – 4 guests who were interviewing for a position
- December 11th – Meeting with Assistant Deputy Under Secretary for Health, Quality, Safety and Value for the Veterans Health Administration (VHA) in the Department of Veterans Affairs (VA), who brought 3 staff members

9. Meeting Schedule

Provided in Exhibit E is a representative sample of in-person meetings held by the FSMB from 2015-2018 and reflects both the frequency and number of attendees. These types of meetings would be ones that the FSMB would like to host at 2118 Leroy Place. The number of attendees is inclusive of FSMB staff, many of whom would be based in the Washington, DC office. Customarily, 10 staff members (4 from the Washington, DC Office) attend Board of Directors meetings. On average, 3-5 staff members attend committee/workgroup meeting.

Sincerely,  
/S/Martin P. Sullivan

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Sullivan & Barros, LLP  
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