

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4TH STREET NW, SUITE 200 SOUTH
WASHINGTON, D.C. 20001
bz submissions@dc.gov**

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Adams Morgan Friends & Allies,

Appellant

v.

**DC Department of Consumer &
Regulatory Affairs, and,
1731 Kalorama Road NW, LLC**

Respondents
=====|

BZA 19896

**Appellant's Response in Opposition to Applicant's Motion for Dismissal dated, May 15,
2019, and, Appellant's Support to Dismiss Appeal Without Prejudice
Reserving Appellant's Full Rights to Appeal Revised Applicant's Plans Now
Under DCRA Review & Pending Approval**

Appellant, Adams Morgan Friends and Allies ("AMFA"), represented by founding member, Chris Otten, comes now asking the BZA to dismiss BZA Case No. 19896 without prejudice and reserving all appeal rights, and to deny Applicant's request to dismiss for lack of standing dated May 15, 2019, as not having merit.

AMFA Has Standing To Pursue Appeal Before the BZA

Adams Morgan Friends and Allies was formed as an unincorporated citizens association with dues paying members in 2017, pursuant to DC Code § 29-1100, *inter-alia*.

Founding members, Chris Otten and Amanda Fox-Perry (current Adams Morgan ANC Commissioner), forged the group to review zoning and planning issues in the Ward 1, Adams Morgan neighborhood, including of the Meridian International project and the instant application. Other members and supporters include Adams Morgan residents living nearby the Applicant's proposed project at 1731 Kalorama Road NW, particularly tuned in to the instant

matter is Eric Blodnikar and Chris Anderson, both who live on the 2300 block of Ontario Road, NW. Mr. Blodnikar has a family with young children. In reviewing the documents we have also sought help from experienced volunteers, Alan Gambrell, former Adams Morgan ANC Commissioner, and Mr. Larry Hargrove, local Adams Morgan historian and zoning specialist.

One of AMFA's members, Chris Otten lives directly across the street from the Applicant's project, at 2203 Champlain Street, NW. Due to its proximity, the land uses and zoning issues associated with this project will directly and permanently impact his quality of life, safety, and welfare. The Applicant is proposing at least 25 residential units (the plans have been revised and continue to be so at DCRA) compacted into a small lot along a fire safety alley space being narrowed by the project along a road heavily traversed by pedestrians, including young children and AMFA members.

The Applicant says they intend to provide lodging for US Veterans at this site. While certainly a bold declaration to support a special and vulnerable population that possess mental and physical needs brought on by preparing and fighting wars, there is no actual indication by any agency that this indeed will be the future land use at this site. Moreover, due to the nature of the building and very small sizes of the proposed units, AMFA expects this site to be a temporary landing spot before locating veterans in more comfortable and permanent settings. Applicant has provided no proof otherwise.

AMFA members moved into the low-rise and moderately-dense Reed-Cooke community due to its historic neighborhood aesthetic (see King Emmanuel Church just adjacent to the site), as well as for the family-friendly social services (Marie Reed Education campus and Mary's Center is just around the block from the site). One of AMFA's objectives is to see the Reed-Cooke zoning regulations ensure proposed project's like that of the Applicant:

- (a) Protect current housing and provide for the development of new housing;
- (b) Maintain heights and densities at appropriate levels;
- (c) Encourage small-scale business development that will not adversely affect the residential community;
- (d) Ensure that new nonresidential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet

social, service, and employment needs in the Reed-Cooke and Adams Morgan community;

(e) Protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts; and

(f) Ensure the preservation and adaptive reuse of the First Church of Christ Scientist building, located on Lot 872 of Square 2560, through a planned unit development process.

11 DCMR K-700.5 (emphasis added).

The Applicant's project challenges Height and FAR, key development parameters that matter in the Reed-Cooke neighborhood and to AMFA members. The Lot Occupancy claims show injury as to the safety (fire and pedestrian issues) of tightening an area around existing Reed-Cooke historic resources, and an area highly traversed by AMFA members, pedestrians, and their families.

Mr. Otten is also a low-income working resident who with AMFA seeks equity in the community, especially as to Inclusionary Zoning within the scope of regulations (11 DCMR C-10, etc.). The Applicant, among other serious concerns, fails to equitably distribute the IZ units and set them at appropriate income levels threatening to dismiss key affordability zoning regulations and unfairly allowing 2nd-class housing options within AMFA members' community. This type of notable housing discrimination negatively affects the social and financial value of the surrounding community, and injury to AMFA members.

AMFA has associational and organizational standing, representing the interests of their members who could have appealed on their own but chose to work through the organization founded exactly to serve this mission. And, the threatened injury of the Applicant's project to members' property values, aesthetic, safety and welfare are long established causes of action under zoning protections. The Applicant's project, as currently proposed, represents imminent injury as to warrant pursuit of an administrative appeal before the BZA.

Applicant's Motion to Dismiss for lack of standing has no merit and must be denied.

Support To Dismiss the Case with Absolutely No Prejudice to Appellants Appeal Rights

The Applicant declared they are revising the plans and that the revised plans have not yet

been issued a permit. Since the revised permit has not yet been issued by DCRA, the Applicant cannot start construction.

Appellants are taking Applicant's representations as true and correct, that the project plans are being substantially revised. It makes no sense for AMFA to prosecute zoning claims using old plans and old zoning information. For example, the Applicant recently filed exhibits with printed dates of February 2018, representing documents filed 8 months prior to the issuance of the permit now under review. Facially, it would seem these documents are not the revised documents now under consideration at DCRA. See Exhibit 25, particularly 25D.

In the alternative to asking for a continuance to hear claims about the original plans now being revised (continuance only makes sense if the current live permit will be pursued by the Applicant) the BZA is empowered to dismiss this appeal with absolutely no prejudice, and ONLY with notice to the Appellant, AMFA members will indeed have the ability to submit a new appeal of a revised DCRA Permit (B1800516) and any subsequent permits or revised permits for any part of the current or revised project at 1731 Kalorama Rd, NW.

There is very real legal concern by AMFA members, that if the BZA dismisses this appeal it would appear AMFA may be prejudiced to not being able to subsequently prosecute zoning claims that are relevant. Counsel for Applicant has relayed there is no misrepresentation of the fact the plans are being revised. Thus, dismissal can be granted but only if the BZA reserves Appellants' rights as to any appeal claims regarding any current or new zoning determinations by DCRA, the agency authorized to issue revised permits for this project.

Regards,

s/n

Chris Otten, AMFA

202-810-2768

CERTIFICATE OF SERVICE

I certify that on this the 21st day of May 2019 a copy of **Appellant's Response in Opposition to Applicant's Motion for Dismissal dated, May 15, 2019, and, Appellant's Support to Dismiss Appeal Without Prejudice Reserving Appellant's Full Rights to Appeal Revised Applicant's Plans Now Under DCRA Review & Pending Approval** was served via electronic mail to:

Adrienne Lord-Sorensen
Assistant General Counsel
Department of Consumer and Regulatory Affairs
Office of the General Counsel
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024
adrienne.lord-sorensen@dc.gov

Goulston & Storrs
c/o Meghan Hottel-Cox, Esq.
1999 K Street, N.W., Suite 500
Washington, D.C. 20006
MHottel-Cox@goulstonstorrs.com

Ted Guthrie, Advisory Neighborhood Commission 1C
1849 Kalorama Road, N.W., Apt.2.
Washington, D.C. 20009
tedguthrie3@gmail.com
1c03@anc.dc.gov

Japer Bowles
ANC 1C071762 Lanier Place, N.W.
Washington, D.C. 20009
1C07@anc.dc.gov

Goulston & Storrs
c/o Christine Roddy, Esq.
1999 K Street, N.W., Suite 500
Washington, D.C. 20006
croddy@goulstonstorrs.com

Sincerely,
c/o Chris Otten, Adams Morgan Friends & Allies
2203 Champlain Street, N.W. #303
Washington, D.C. 20009
(202) 810-2768