

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



May 23, 2019

Memo to file:

Re: BZA Appeal No. 19896

At the public hearing of May 22, 2019, the Board continued the above-referenced appeal to **June 12, 2019**, finding that additional documentation was needed before it could proceed with hearing the case. The Board determined to hold the pending motions to dismiss in abeyance until that time.

The Property Owner has submitted a timely motion to dismiss the appeal for lack of standing and failure to state a claim. The issue of the Appellant's standing impacts both the underlying appeal and the motion to dismiss. The Appellant has failed to provide formal, written authorization for its agent, Chris Otten, to represent its interests before the Board as required by Subtitle Y § 302.10. The Appellant is therefore, procedurally unable to present a counterargument to the substantive elements of the Property Owner's motion.

The Appellant has also submitted a motion agreeing to dismiss, (noting that a revised building permit reflecting revised plans is expected) contingent upon the Board allowing the Appellant to raise any claims for the current or revised building permits in a future appeal.

However, the Board notes that the original building permit B1800516 is the only one under appeal. Concerning any future revisions to the building permit, the Board notes that Subtitle Y § 302.5 establishes that only the first writing of a decision can be appealed and that modifications can only be appealed to the extent of the modification. If the appeal of building permit B1800516 is dismissed and that permit is later revised, the revised permit could be appealed, but the issues would need to be limited to those raised for the first time by the revision.

In order to properly deliberate on the motions of both parties, the Board will allow the Appellant an opportunity to correct the underlying authorization and standing issues and to fully address the failure to state a claim argument raised by the Property Owner.

The Board requests that the Appellant submit the following information to the record by **May 29, 2019 at 11:59 p.m.**:

On the matter of standing:

- Documentation of Adams Morgan Friends and Allies (AMFA)'s status as a community organization, such as: by-laws, names and addresses of members, dates/agendas of public meetings, and any resolutions related to this appeal.
- Written authorization from AMFA for Chris Otten to serve as its representative before the Board in this matter per Subtitle Y § 302.10.
- A written explanation of which AMFA members are claiming to be particularly aggrieved by the issuance of Building Permit B1800516, and the specific nature of those grievances, based on the zoning regulations per Subtitle Y § 302.12(f) and (g).

On the matter of failure to state a claim:

- A clear statement of the specific ways in which the Zoning Administrator erred in issuing Building Permit B1800516 with evidence and anticipated testimony as required in the initial appeal filing by Subtitle Y § 302.12.

DCRA and the Property Owner may file any responses to the Appellants filings by **June 5, 2019 at 11:59 p.m.**

All parties are advised that the deadlines that the Board has set in this matter are final, and any untimely submissions will not be permitted into the record without a written explanation of good cause.

If you have questions, please contact our office at 202-727-6311.

SINCERELY,

A handwritten signature in black ink, appearing to read "Clifford W. Moy". The signature is fluid and cursive, with a long horizontal stroke at the end.

CLIFFORD W. MOY
Secretary, Board of Zoning Adjustment
Office of Zoning