

**The Committee of 100 on the Federal City
Zoning Commission Hearing on October 26, 2009
Barbara Zartman, Zoning Chair**

Case 09-13 – BZA Consent Calendar

Separating this issue from the Zoning Regulation Re-engineering –

The Committee of 100 believes this proposal should not be pulled out of the overall ZRR process because BZA procedures are as central to zoning reform as any topic. We deeply appreciate the dedication of those who serve on the Board of Zoning Adjustment, including the rotating representative of this Commission. The hours can be long and contentious, but amending one element of BZA operations while others are the subject of proposed ZRR changes will only add to confusion rather than serve to simplify the zoning process.

You have had before you proposals to change any number of land uses to matter-of-right entitlements, including auxiliary dwelling units. While we strongly disagree with such proposals and hope the Commission thinks better of them, they would certainly affect the number of cases brought to the BZA, both as applications and as appeals.

Similarly, OP proposes that institutional use be allowed of-right in residential neighborhoods up to perhaps 50,000 square feet. Again this would have a major impact on the BZA caseload – unless the Commission thinks better of this proposal too.

There is a more subtle factor involved as well: we believe a number of proposals from the Office of Planning will have the effect of limiting due-process rights for citizens, associations, and ANCs. We ask that the Commission delay any individual change to procedures until we can all see the collective impact on citizens' rights of the several proposals, as the White & Smith report cautions.

Scheduling and the “Mechanics” –

The proposals don't seem to make sense when viewed in terms of ANC operations and the legal requirements for notice of ANC action. It is also a tight timeline that demands public reaction within a four-day window, if we are reading the OP proposal correctly.

Moreover, any case in which someone has filed an application for party status would seem, by definition, to be ineligible for inclusion on a consent calendar. The automatic party status for ANCs presents its own complication.

It is not clear whether OP would contemplate allowing appeals of decisions rendered via a consent calendar by those who missed the four-day window or some other procedure – or whether motions to reconsider would be entertained. Of course, without a hearing record, findings of fact, and conclusions of law, the question might be moot.

We ask that you at least postpone action on this topic until it can be considered along with the omnibus rulemaking.

