

Cochran, Patricia (DCOZ)

From: Morreale, Peter <peter.morreale@cwt.com>
Sent: Tuesday, November 12, 2019 2:11 PM
To: DCOZ - BZA Submissions (DCOZ)
Cc: Liz Evans; Martin Evans; Laura Morreale; Murphy, Rick (SMD 2E03)
Subject: RE: BZA Case No. 20135 of 3428 O Street, LLC: Letter in Opposition
Attachments: ZB letter.pdf

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As a follow-up to my attached letter, I wanted to note that it has come to my attention that the property in question has already been leased and that it is the lessee and not the property owner who has applied for the variance. As you website notes:

“The BZA is authorized to waive strict application of any part of the Zoning Regulations where, **due to an exceptional situation**, the strict application of the Zoning Regulations results in "exceptional practical difficulties or exceptional and undue hardship" **upon a property owner**. Emphasis added.

That standard is codified in Section 3106.7(b) of the DC Municipal Regulations. To wit: “An applicant for a use variance must prove that as a result of the attributes of a specific piece of property described in § 3103.2, the strict application of a zoning regulation would result in exceptional and undue hardship **upon the owner of the property**.” [Emphasis added]

As a result, I question whether the lessee “Call Your Mother” even has standing to make the application under the relevant DC Regulations. In fact, the Zoning handbook published on your site indicates: “Only the owner of the property for which a variance is sought, or an agent authorized by the property owner, may apply for variance relief.” The appropriate result here appears to be denial for lack of standing. In any event, any hardship (and I do not concede that one exists) devolves upon the lessee and not the property owner, in which case the standard for granting the variance cannot be met. Additionally, I think it would be hard for the property owner to make a case that there is undue hardship, given that the lessee was willing to enter into the lease.

Many thanks,

Peter Morreale

From: Morreale, Peter
Sent: Thursday, October 31, 2019 11:39 AM
To: 'bzsubmissions@dc.gov' <bzasubmissions@dc.gov>
Cc: 'Liz Evans' <lizmurphy.evans@gmail.com>; Martin Evans <evansmdd@gmail.com>; Laura Morreale <lmorreale3@gmail.com>; '2E03@anc.dc.gov' <2E03@anc.dc.gov>
Subject: BZA Case No. 20135 of 3428 O Street, LLC: Letter in Opposition

Please see attached for a letter in opposition of the referenced Variance application.

Peter Morreale

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