

**DC Board of Zoning Adjustment
441 4th Street NW, Suite 200 South
Washington, DC 20001
bzsubmissions@dc.gov**

DC for Reasonable Development
Daniel Wolkoff, member
Cynthia Carson, member
Melissa Peffers, member
Jerome Peloquin, member,
James Fournier, member
Linwood Norman, member,
Jimmie Boykin, member

Joint Appellants,

v.

DC Department of Consumer and
and Regulatory Affairs,

Respondent.

BZA Appeal No. 20191

Appeal of DCRA Demolition
Permit D1600814 dated
August 16, 2019 &
Appeal of DCRA
Foundation Permit FD1800040
dated August 27, 2019

**EMERGENCY MOTION FOR IN-PERSON HEARING ALLOWING
FOR ACCESSIBILITY & WELFARE OF PROTECTED PARTICIPANTS**

Petitioner, DC for Reasonable Development (“DC4RD”), a non-profit citizens association located in the District of Columbia, and its directly affected members who have asked to participate in this appeal through our citizens association, come now with good cause seeking an in-person hearing per 11 DCMR Y-506.1(b),(h).

All parties have been served per 11Y DCMR 205, et seq. Yet, none of the opposition parties have actively granted consent to this emergency motion.

INTRODUCTION

A notice recently sent by from staff at the DC Office of Zoning informed the Appellants that The Board of Zoning Adjustment is considering/now conducting "virtual" meetings & hearings. A "virtual" hearing is one whereby a contested case is apparently held remotely by Commissioners and by parties using computers and phones. A "virtual" hearing will not allow for in-person testimonials and witnesses with physical evidence to review and consider.

Appellants understand the BZA will consider holding a "virtual" hearing in BZA Appeal No. 20191. We understand Commissioners will deliberate and decide on whether to hold a "virtual" hearing in the above captioned case at a "virtual" meeting to be held on Wednesday, May 27, 2020.

Appellants ask the BZA to NOT hold a "virtual" hearing in this matter and instead hold a actual in-person hearing when the pandemic ends for the following key reasons:

1. Appellants intend to introduce experts and witnesses that require in-person demonstration of materials and boards that is made much more difficult in a virtual way. Moreover, some of the experts we intend to introduce are elders with little access to the technologies required to adequately demonstrate our case in full. A "virtual" hearing makes following 11 DCMR Y-507.1 for our participating witnesses very difficult if not impossible.
2. Appellants consist of elders who are hard of hearing and visually impaired who can follow the BZA procedures and this case far more easily in-person than by phone or computer. Again, this impairs the ability of our appellants to follow 11 DCMR Y-507.1.
3. Appellants recognize that the overall thrust of a "virtual" hearing is to deny the very reality that a global pandemic of unfathomable proportions is plaguing our world and especially the District of Columbia right now. For the Mayor's agencies and independent District agencies such as the Board of Zoning Adjustment to ply on and hold hearings, even "virtually" to approve variances, exceptions and allow for building permits to be issued sets into motion further safety and welfare complications associated with this endemic by which simple ignorance cannot deny. That is, by allowing variances, exceptions, and approving/denying appeals that hold as question construction activities in DC, the BZA and other city agencies are playing a fundamental role in exposing the plague to those participating in the construction activities and also the communities surrounding such activities. Particularly disturbing is the protected class of people, working people, typically of color, who are pressed into working on construction projects in close quarters, sometimes with, largely without safety measures in place, thus defying the social distancing requirements of the city and defying the life-saving common sense that distancing seeks to end. Approving construction at this time continues imminently the risk of furthering this plague at the construction sites and upon living and working in the communities where projects are being approved. In short, the BZA's rush to "virtually" push through variances, exceptions, and hear appeals to allow construction to go forward flies in the face safety and welfare of those who have to build the projects (who are not otherwise being

offered financial help and healthcare during this pandemic now), as well as moving to spread this plague into the communities where the projects are being approved. Thus Appellants face the grave danger that rushing through a "virtual" hearing on our appeal will bring to our lives and our community.

Upon consideration of the foregoing reasons, in light of the Zoning Regulations seeking safety for DC residents, as well and in light of the DC Human Rights Act, the Appellants in BZA Appeal No. 20191 ask the BZA to ensure an in-person hearing on our appeal once this pandemic can be considered truly and safely ended.

CONCLUSION

Upon consideration of the aforementioned facts and law and under the authority of the BZA pursuant to the zoning regulations cited above, Appellants ask the BZA to grant this emergency motion for an in-person hearing in this matter.

As submitted by the Appellants on this, the 27th day of May, 2020, by the authorized agent,

/s /n

Chris Otten, co-facilitator

DC for Reasonable Development

202-656-5874

dc4reality@gmail.com

CERTIFICATE OF SERVICE

I, Chris Otten, attest to serving the above **EMERGENCY MOTION FOR IN-PERSON HEARING ALLOWING FOR ACCESSIBILITY & WELFARE OF PROTECTED PARTICIPANTS** to the Respondent and Applicant, on March 3, 2020, as follows:

RESPONDENT DCRA

Hugh.Green@dc.gov
Brendan.Heath@dc.gov
Matthew.Legrant@dc.gov
Esther.McGraw2@dc.gov

APPLICANT DMPED

Fernando.Amarillas@dc.gov
Andy.Saindon@dc.gov

Mayor Muriel Bowser,

By email: eom@dc.gov

Courtesy copies to all complainants:

Daniel Wolkoff <amglassart@yahoo.com>,
Cynthia Carson <cyncarson@gmail.com>,
Jerome Peloquin <aquaponikus@gmail.com>,
Linwood Norman <Linwood.norman@gmail.com>,
Melissa Peffers <mpeffs@gmail.com>,
Christof Rotten <crotten2@gmail.com>,
James Fournier <james.fournier@gmail.com>,

And by mail to:
Jimmie Boykin
2406 N Capitol St.
WDC 20002