

# Bello, Bello & Associates, LLC

04/23/2019

Frederick L Hill

Chairperson

Board of Zoning Adjustment

441 4<sup>th</sup> Street NW

Suite 210 South

Washington DC 20001

## **Applicant's Supplemental Statement**

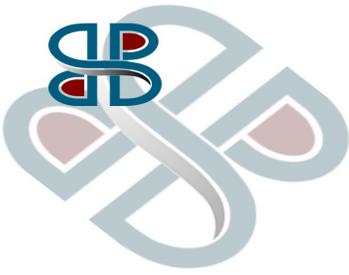
**Re: 774 Rear Fairmont Street NW. BZA No. 19978**

Applicant submits this supplemental statement in brief of the following issues that arise from the Office of Attorney General's (OAG) review of the instant application that the Board may deliberate upon as a preliminary matter because the issues raised may determine whether the Board hears this case or grant a continuance in order to resolve the questions raised.

### **1. Does the Subject Property have a designated address as an alley Lot**

Applicant attaches the following documents as proof of the existence of an official address based on available public record for subject property:

- a. Copy of the certificate of occupancy for previous use of property pursuant to use variance relief granted the former occupancy under BZA No. 17928 on June 23, 2009
- b. Copy of property Tax Assessment database for subject property Square and lot numbers; corresponding legal description of subject property
- c. Record of Property Information Verification System (PIVS) on DCRA Website. PIVS is the DCRA unique system for tracking all information about a subject property.



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Applicant's contention is that the provision of the Construction Codes relied upon by OAG, 12 DCMR § 118.6.6 when read in tandem with 12 DCMR § 118.11 is applicable to specifically to private thoroughfares, including private alleys.

## **2. Property will not comply with C – 303.3 (a) and (b)**

This concern fails to cite C- 303.3 (c) which permits abutting existing alley lots, whether a record lot or tax lot created prior to May 12, 1958 to be consolidated through subdivision which exempts subject property from the precursor provisions set forth under C -303.3 (a) and (b).

The subject property is a single tax lot. To the extent that the tax lot is required to be converted to a lot of record, that process is perfunctory from an administrative standpoint in light of the ability of more than one alley record or tax lot to consolidate without being subject to C-303.3 (a) and (b)

## **3. Extinguishment of Use Variance Approved under BZA 17928 Pursuant to 11-Y DCMR, sec. 706.1(c).**

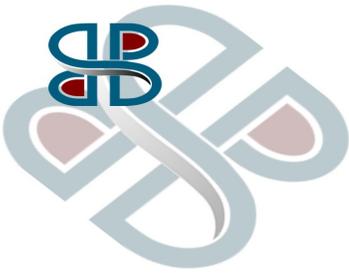
Applicant attests to foreknowledge of the implication of establishing a matter of right use and the effect that the previously approved use established by virtue of BZA 17928 is extinguished or that approval of the instant application supersedes and extinguishes the validity of the use previously approved by the BZA.

## **4. Special Exception versus Variance**

Applicant submits that the provision set forth under E-5204.1 is applicable strictly to applications seeking relief for a reduction in the minimum yard requirements for alley lots in the RF-1 zone district. The instant application does not seek a reduction in the yard requirements in its underlying RF-1 zone district.

Applicant contends that this provision does not obviate the provision set forth under E-5108.1 which permits relief from the general provisions applicable to alley lots as special exception.

Nonetheless, applicant apprised the affected ANC of this anomaly, and because there is no objection whatsoever from neighbors, applicant submits that no party is prejudiced whether the relief is granted as a variance or special exception in accordance with the Board's determination



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Respectfully

Toye Bello

Authorized Representative