

GOODWIN PROCTER

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July 30, 2007

VIA COURIER

Board of Zoning Adjustment
For the District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20001

Re: BZA Appeal No. 17631
4319-4321½ Fessenden Street, N.W.
(Square 1655, Lots 17-20)

Dear Members of the Board:

This is a brief reply to the letter sent to you by counsel for the Property Owner in the above-entitled proceeding responding to our "Response to the Board's Request."

1. The Property Owner cites no decision by either this Board or any Court of the District of Columbia holding that actual, legitimate, easements between independent parties can render lawful land usage that would otherwise violate the frontage, minimum lot size, percentage of lot occupancy and parking requirements of the Zoning Regulations.

2. More to the point, here there are no such easements. Here, the Property Owner agreed with itself to create ersatz "easements" that in reality redrew the lot lines to improve the salability of the houses it is building. As a result: Lot 18 has no frontage. Lot 17's frontage has become a driveway for four lots and twelve parking spaces. Parking spaces are located on Lot 19 to serve houses on the other lots. Lots 17 and 18 have open area parking spaces not within a front or rear yard. The parking spaces for the other lots that are located on Lot 19 reduce its size to well below the minimum lot size and increase to an impermissible degree the percentage of lot occupancy taken up by the house being built on it.

3. Appellant does not contend that panhandle lots or legitimate driveway easements *per se* violate any Zoning Regulations. Appellant's argument is simply that the Property Owner told DCRA how it would use the property, *i.e.*, in a way that violates a number of the Zoning Regulations, and that DCRA knowingly ignored that information because it was laid out in a

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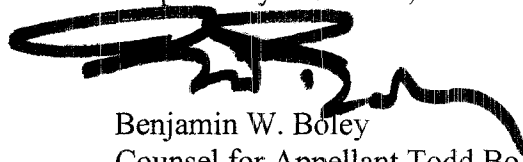
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document misnamed an "easement" and so erroneously issued the challenged building permits. The Property Owner's references to the Garfield Street panhandles and the real easement that has long burdened Appellant's property in no way counter this argument.

Respectfully submitted,



Benjamin W. Boley
Counsel for Appellant Todd Boley

BWB:skb

Certificate of Service

I hereby certify that the foregoing letter was served on the following persons by First Class mail, postage pre-paid, on July 30, 2007:

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