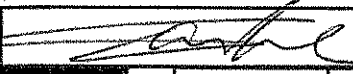

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

FORM 141 - INTERVENOR REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: THIS FORM IS FOR APPEALS ONLY.
(Please see reverse side for more information about this distinction.)

Name:	57th Street Mews, Inc		
Address:	3203 Shortridge Lane, Mitchelville, MD 20721		
Phone No.(s):	240-832-4315	E Mail:	demuren@comcast.net
I hereby request to appear and participate as an intervenor in Appeal No.:		18501	
Signature:			Date:
		1/29/2013	
Will you appear as a(n)	☐ Proponent	☒ Opponent	Will you appear through legal counsel?
		☒ Yes ☐ No	

If yes, please enter the name and address of such legal counsel.

Name:	Lisa Bell, Esq		
Address:	300 New Jersey Avenue, Suite 900 NW DC 20003		
Phone No.(s):	202-683-8929	E Mail:	lbell@pctlg.com

INTERVENOR CRITERIA:

On a separate piece of paper, please answer all of the following questions referencing why the above person should be granted intervenor status, pursuant to 11 DCMR § 3112.15:

1. What legal interest does the person (i.e., owner, tenant, trustee, or mortgagee) have in the property?

Mr. Demuren is the President of the corporation, 55 Street Mews Corp, which owns the subject property.
2. How will the property owned or occupied by such person, or in which such person has an interest, be affected if the Appeal before the Board is approved or denied?

Mr. Demuren is the only individual who will be substantially impacted by the Board's decision because he the owner and the permit holder.
3. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the Appeal before the Board is approved or denied.

The Board's decision will unfairly restrict the owner's use of the property.
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Board is approved or denied?

As property owner and permit holder, he will suffer economic loss if appeal is granted.
5. What is the distance between the person's property and the property that is the subject of the Appeal before the Board? (Preferably no farther than 200 ft.)

No distance.

BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this distinction.)

Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:

Name:	57th Street Mews, Inc		
Address:	3203 Shortridge Lane, Mitchellville, MD 20721		
Phone No(s):	240-832-4315	E Mail:	DEMUREN@COMCAST.NET
I hereby request to appear and participate as a party in Case No.:			
Signature:			Date: 1/29/2013
Will you appear as a(n)	☐ Proponent	☒ Opponent	Will you appear through legal counsel? ☒ Yes ☐ No

If yes, please enter the name and address of such legal counsel.

Name:	Lisa Bell, Esq		
Address:	300 New Jersey Avenue, Suite 900, NW, DC 20003		
Phone No(s):	202-683-8929	E Mail:	lbell@pctlg.com

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness (*Zoning Commission only*);
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (*Zoning Commission only*); and
4. The total amount of time being requested to present your case (*Zoning Commission only*).

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Commission/Board, any affected person shall file with the Zoning Commission or Board of Zoning Adjustment, this Form 140 not less than fourteen (14) days prior to the date set for the hearing.

Before the
DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 Fourth Street, N.W., Suite 200
Washington, D.C. 20001

IN THE APPEAL OF:

Administrative Decision of DCRA	)	BZA Appeal No.: 18501
607 14 th Place, N.E. (Square 1051, Lot 181)	)	Hearing Date: February 12, 2013 at 9:30 am
Building Permit # B1207040	)	
	)	

STATEMENT OF MR. TAIWO DEMUREN, INTERVENOR

Mr. Taiwo Demuren (“Demuren” or “Intervenor”), hereby requests, pursuant to 11 DCMR §§ 3106, 3112.15 (2012), that the D.C. Board of Zoning Adjustment (“BZA”) grant him party status as an Intervenor¹ in the Appeal taken by the ANC 6A from the administrative decision of the Department of Consumer and Regulatory Affairs Building and Land Use Regulation Administration (“DCRA”) approval of Building Permit # B1207040 (“the Permit”) for 607 14th Place NE. Further, Mr. Demuren also requests the BZA deny the Appeal.

¹ Mr. Demuren is a “party” in this Appeal, as defined in 11 DCMR § 3199 (2012), because he is both the owner of the Subject Property and permit holder of No. 1207040. Property owners seeking party status in appeals are typically considered applications for Intervenor status and Mr. Demuren meets the “good cause” standard for participation under that standard; DCMR § 3112.15. (2012) (The Board may grant intervenor status if the person requesting intervenor status has clearly demonstrated that they have a specific right or interest that will be affected by action on the appeal.)

Mr. Demuren has a specific interest in this action and can demonstrate a specific need for his involvement given his ownership of the property and intent to build. His possession of public documents and records which chronology the history of the subject property is an important addition to the Appeals record and helpful for the BZA’s review.

A. Preliminary Statement.

Mr. Demuren² is the owner of the property located 607 14th Place, N.E. Washington, D.C. 20002 (“subject property”), Square No. 1051, Lot No. 181. At the time Mr. Demuren purchased the property it was undeveloped, flat, level and vacant. On September 12, 2012, DCRA issued a building permit approving construction of a two-unit house on the site. The ANC 6A has appealed the DCRA’s issuance of the building permit on the basis the site is too small to meet the minimum requirements for development for R-4 row dwelling under Sec. 401.3 (2012). The Appeal, however, raises a specious argument and incorrectly relies upon facts which are both unsubstantiated and untrue. The appropriate and correct standard for review is Sec. 401.1 which governs construction in R-4 district for replacement of buildings in existence on May 12, 1958.

As described more fully below, the factual predicate upon which the Intervenor asserts herein, and evidenced by the exhibits attached to his Statement, establishes the existence of a building on the Subject Property. The existence of the building at 607 14th Place, N.E. before and as of May 12, 1958 triggers Sec. 401.1 which focuses on enlargement and/or replacement of structures on lots not meeting the minimum lot dimensions set forth in Sec. 401.3. The applicability of Sec. 401.1 under these facts necessarily amends Sec. 401.3 and establishes that a substandard lot may be constructed upon under specified circumstances. Given the problems with the factual predicate, the sole basis upon which Appellant’s assertions rest, the Appeal must fail.

² The subject property is owned by the 57th Street Mews, Inc. Mr. Demuren is the President of that corporation.

B. Factual Background

The Subject Property is located at 607 14th Place, N.E., Washington, D.C. 20002, in the R-4 zone district. The site was vacant and unimproved prior to the issuance of the building permit. On September 12, 2012, Building Permit No. 1207040 was issued to construct a new two-unit structure or building on the site.

To determine the validity of the building permit, and the zoning regulations which govern its issuance, it is necessary to review the history of the site. In this case, public records reveal a building existed at the subject property for 63 years, before and after May 12, 1958.

Public records obtained by the Intervenor trace the history of the subject property. In 1911, the subject property at 607 14th Place, N.E. was previously named 607 *Florence Court*, N.E. (Attached as Exhibit No. 1). Records show an application for a permit 'to build upon said lot'; identified as Lot 176, dated September 20, 1911. ("1911 Building Permit") (Attached as Exhibit No. 2). The 1911 Building Permit , authorized the construction of four other row structures spanning 607 -615 Florence Court NE, on the same block as the Subject Property (Square 1051, Lots 176, 177, 178, 179, 180, respectively) (Attached as Exhibit No. 3).

Work orders from the water company also reveal when the house was most likely removed. In August 19, 1957, a work order for repair and replacement of the water meter pit for 607 14th Place NE or 607 Florence Court NE (see Exhibit No. 4) was issued. The work order is evidence a building existed at the site in 1957 because a 'pit' is used when a building is occupied. Another water meter record dated twenty years later, on

October 24, 1974, noted the 'intent to raze the building' (in conjunction with removal of the water meter). This description of the work to be performed at the Subject Property clearly and unmistakably indicated a home/building existed at the site.

These records demonstrate a history that a building existed at the site for 63 years. There are no other records that indicate the 1911 home was razed earlier than 1974 and no other record which indicates more than one home, in 1911, was built at the location. Indeed, it is not unreasonable to conclude that the improvement or structure constructed upon the subject property on or shortly after September 20, 1911 existed on said lot until or after October 1974 when it was razed (see Exhibit No. 5).

The existence of the building at the Subject Property on May 12, 1958 dictates Sec. 401.1 should govern the legal review of this Appeal.

C. *Legal Discussion*

The Zoning Administrator reviewed the history of the subject property to determine if a building permit should be issued for new construction. Where, as is the case here, the subject property in an R-4 district has a historic record upon which to consult, the record can include a factual basis.

The Zoning Regulations provide in its pertinent part:

Except as provided in chapters 20 through 25 of this title and in the second sentence of this subsection, in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, *the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title*. Notwithstanding the above, the lot area requirements of § 401.3 must be met when the building is being converted to a use or replaced by a building intended to house a use that would require more lot area or lot width than is on the building's lot.

Id., 11 DCMR § Sec. 401.1(2012)(emphasis added).

The Zoning Administrator's approval of the building permit indicates a review was made of the surveyor's plat, related maps and other documents to establish the existence of a pre-1958 home on the site. Notwithstanding that determination, Mr. Demuren submits additional records which lend support to that conclusion. Moreover, the Intervenor's records firmly establish the existence of the pre-1958 home and the evidence of the raze permit to remove the building at the site.

The Appellant reads the Zoning Regulations to require compliance with Sections 401.2 and 401.3 exclusively for development of an unimproved site in an R-4 zone. In this case, he argues the lot does not meet the minimum dimensions specified in those Sections, including other specified provisions or conditions; therefore the ZA erred in issuing a building permit to be constructed on the subject property. Though he states, "not to know whether the lot was unimproved as of November 1, 1957," the Appellant has failed to provide any evidence a building did not exist at the site in 1957. He did not provide evidence of a vacant lot in 1957 because he could not submit evidence to substantiate a conclusion that subject property was unimproved at that time.

The Applicant's argument fails to raise any other issues the BZA must consider. His legal discussion related to the elements of Section 401.2; (a) single ownership of unimproved lots or (b) the size of the proposed structure and the lot occupancy, are not relevant under these facts. The existence of the building in 1958, on the seemingly unimproved lot, changes the analysis.

There is ample evidence in the record to support DCRA's decision to issue a permit. As set forth in § 401.1, a replacement structure may be constructed on a lot not meeting the

minimum width and area requirements of § 401.3, provided that the lot was improved with a structure prior to and as of May 12, 1958; the proposed replacement structure complying with all other requirements or provisions of the Regulations.

REQUEST FOR RELIEF

Given the documents contained in the record in support of the building permit, Demuren requested the Board deny the Appeal.

Respectfully submitted,

/s/
Mr. Taiwo Demuren

Date: February 1, 2013

Witnesses:

1. Taiwo Demuren, President, 57th Street Mews, LLC
2. Leon Paul. Zoning Consultant. Bello, Bello & Associates, LLC

CERTIFICATE OF SERVICE

A copy of the Statement of the Intervenor, Taiwo Demuren, was sent, electronically to:

Drew Rosenberg
ANC Commissioner 6A
646 11th Street, N.E.
Washington, D.C. 20002
6A02@anc.dc.gov

Jay Surabian
Assistant General Counsel
D.C. Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024
Jay.surabian@dc.gov

_____/s/_____
Lisa A. Bell

DC Board of Zoning Adjustment
441 Fourth Street, Second Floor
Washington D.C, 20001

Exhibit I

D. 1553

Surveyor's Office
DISTRICT OF COLUMBIA

Washington, September 20th 1911

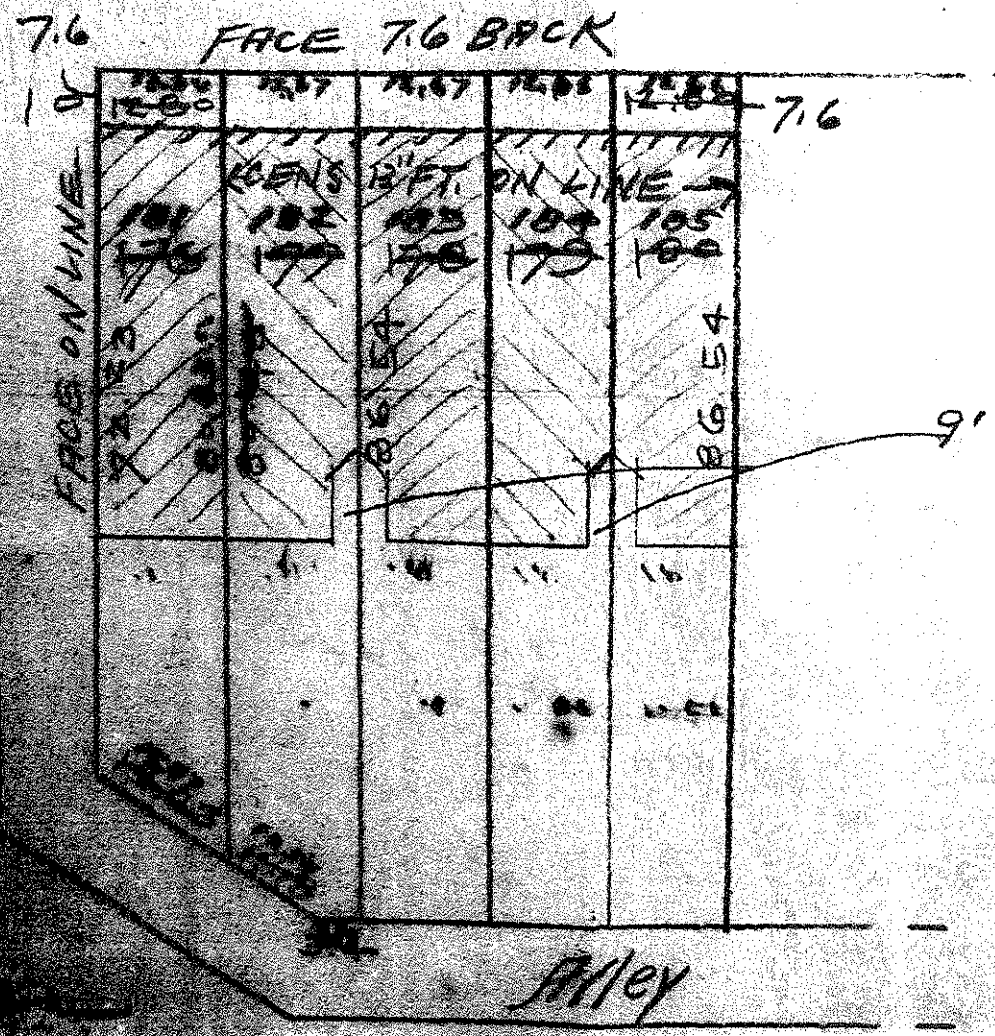
Building Permit, of lots 176 to 180, Square 1051,

Recorded in Book 44 page 135
S.O. 24251

Exhibit
No. 1

Scale: 1 in. = 20 ft.

Florence Court



DC Board of Zoning Adjustment
441 Fourth Street, Second Floor
Washington D.C, 20001

Exhibit II

1553

Surveyor's Office
DISTRICT OF COLUMBIA

Washington, September 20th 1911

Building Permit, of lots 176 to 180, Square 1051,

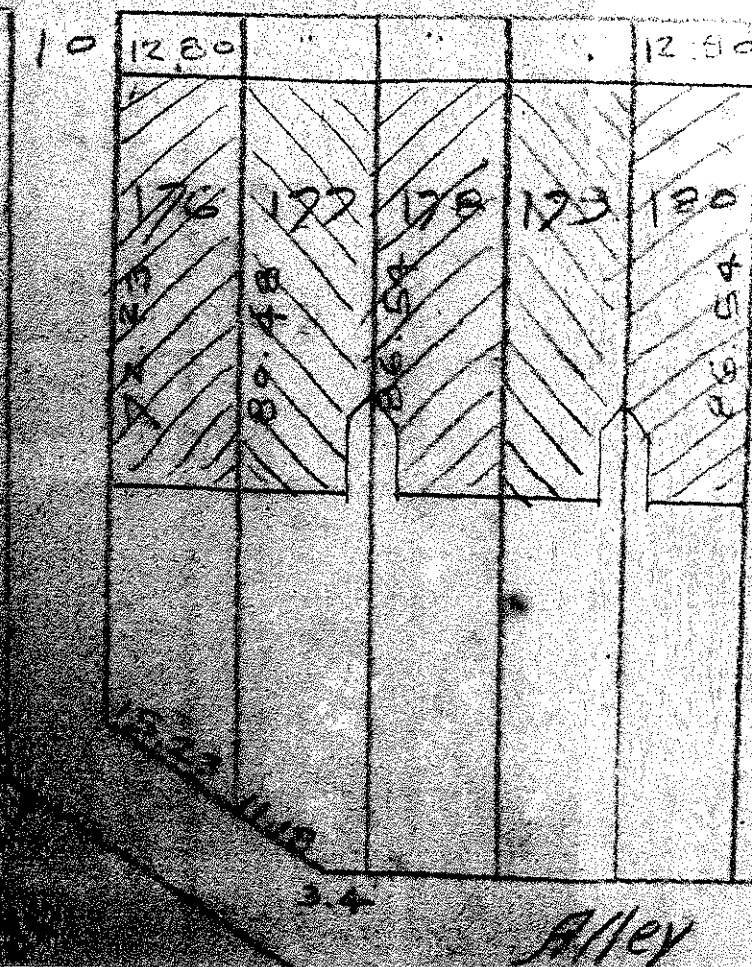
Recorded in Book 44 page 135

S.O. 24251

Exhibit No. 2

Scale: 1 in. = 20 ft.

607-615 Florence Court



DC Board of Zoning Adjustment
441 Fourth Street, Second Floor
Washington D.C, 20001

Exhibit III

W.B.D.

Permit No. 1553

Application for Permit to Build

Owner D. M. Rust Jr.

LOCATION

Street 607 to 615 Florence Ct.

Lot 196-180 Block 1057
Square

Subdivision

PERMIT GRANTED

SEP 23 1911

191

52V

2500

Buildings on 14th Place NE Between 607 and 607

This project has been funded in part by a U.S. Department of the Interior, National Park Service Historic Preservation Fund grant administered by the District of Columbia's Historic Preservation Office.

<i>Square-Lot</i>	<i>Address</i>	<i>Material</i>	<i>Purpose</i>	<i>Permit</i>	<i>Date</i>	<i>Cost</i>
1051 0181	607 14th Place NE	13 x 0 brick	dwelling	1555	9/23/1911	\$1,500
<i>Owner</i> Rust, David N., Jr.		<i>Architect</i> MacNeil & MacNeil	<i>Builder</i> Rust, David N., Jr.			
<i>Updated?</i> Yes		<i>Extant?</i> Yes				

Square Lot
1051 169

1553
2108

DC Board of Zoning Adjustment
441 Fourth Street, Second Floor
Washington D.C, 20001

Exhibit IV

[Faint handwritten notes on lined paper, possibly bleed-through from the reverse side.]

DATE	TIME	LOCATION	DESCRIPTION	INITIALS	REMARKS
1957	10:00	118206	945582	9/18/57	verified
1957	10:00	118206	000000	9/18/57	verified

3-27-57 1173 PERMIT REQUESTED AUG 19 1957 1173
 607-14th PLACE N. E. ROUTE 673
 PREMISES 607-14th PLACE N. E. ROUTE 673
 NATURE OF WORK 1st TALLY 50

ADDRESS		607 14th Place, N. E.		M-9		ACTY. NO. 14046 and 14047	
FORM ES-101 FEB. 1972		DEPARTMENT OF ENVIRONMENTAL SERVICES METER WORK ORDER REQUEST		JAN 20 1975		DATE INITIATED 10-24-74	
WORK DESCRIPTION		REMOVE METER, FIT, FRAME & COVER		Page C			
SIZE	MAKE/TYPE	NUMBER	REGISTER	INSTALLED	REMOVED		
	QUT						
METER LOCATION							
REMARKS (Use front of notebook)							
Found water at 1st AC. Dig up & removed pit frame & cover. 3' x 3' dug in brick sidewalk. Dig. being made.							
WHITE—PRIVATE METER		PIN—FEDERAL METER		GREEN—D. C. METER			
BLUE—MUNICIPAL METER							
1. WOD—METER BRANCH							

6 ft 3/4 copper tubing

2 3/4 copper to base

1 3/4 copper pipe

DC Board of Zoning Adjustment
441 Fourth Street, Second Floor
Washington D.C, 20001

Exhibit V

ADDRESS

607 14th Place, N. B.

ACCT. NO. (Include and Tally)

674-156

DATE INITIATED

10-24-74

DEPARTMENT OF ENVIRONMENTAL SERVICES

REQUESTED

10-24-74

10-24-74

10-24-74

10-24-74

10-24-74

10-24-74

UNIT

CITY OF DENVER
MUNICIPAL WATER

WATER METER BRANCH

RECEIVED

CHIEF

U.S. DEPT. OF JUSTICE

1964