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2109 10th St., NW PH-1
Washington, DC 20001

June 6, 2016

Board of Zoning Adjustment
441 4th St., NW
Suite 200S
Washington, DC 20001

Re: Request for Extension of Order No. 18723
2105-07 10th St., NW (Square 358, Lots 5,6,and 802, aka lot 831)

Members of the Board:

In response to my request for party status, the Applicant's attorney suggests that party status to the Board's upcoming proceeding on June 7, 2016 should be denied because the proceeding is not a public hearing. That position is not supported by the regulations. Pursuant to section 3106 of the regulations, a person may request to be a party in a "proceeding." The extension request is a proceeding. Therefore, my request for party status should be granted.

The Board's regulations govern its "proceedings," including the subcategories of "meetings" and "hearings." (See Section 3108.1: "No person shall utter loud, threatening, or abusive language, or engage in any disorderly or disruptive conduct that has the effect of (as determined by the presiding officer) impeding any meeting, hearing, or other proceeding of the Board . . ." Emphasis added.)

In the case of the Applicant's extension request, the Board will consider the matter at a meeting, not a hearing, i.e., the proceeding will be conducted based on written submissions (including Applicant's extension request), as opposed to an oral hearing. Section 3106 of the regulations provide for party status at all proceedings, not merely hearings. (See section 3106.1: "In a proceeding before the Board, any person or party may appear on that person's or party's own behalf." Emphasis added.) Applicant's attorney points to section 3113.21 of the regulations to suggest that it is the exclusive authority for the Board to grant party status. However, that section of the regulations governs only hearings. The absence of a regulation governing party status with respect to non-hearing proceedings does not mean that the Board does not have the authority to grant party status in such situations.

Applicant's attorney also points to Section 2121 of the regulations to suggest that since the record of the hearing of Applicant's original variance request had been closed, no further submissions may be accepted into the record. However, I am not seeking to submit additional materials to the record of the original hearing (Case No. 18723) but am seeking party status for the new proceeding (Case No. 18723A). In the alternative, to the extent this new proceeding is considered to be a continuation of the original proceeding, I am requesting the Board to re-open the record, pursuant to section 3121.9. There is good cause to re-open the record in this case, as the nature of the proposed building has substantially changed, and therefore I could not have had an opportunity to comment on such changes at the time of the initial hearing.

Board of Zoning Adjustment
District of Columbia
CASE NO.18723A
EXHIBIT NO.12

Regards,

A handwritten signature in black ink, consisting of stylized, overlapping loops and strokes, likely representing the name David Stirpe.

David Stirpe