

Paul Harrison
3007 Albemarle St NW
Washington DC 20008
202-270-5727 paul@3lobos.com

July 19, 2022

via IZIS & email to bzasubmissions@dc.gov

Mr. Frederick Hill, Chairman
Board of Zoning Adjustment
441 4th Street, NW, Suite 210S
Washington, DC 20001

Re: Letter Opposing Motion – Case #20594, 3007 Albemarle St NW

Dear Chairman Hill and Members of the Board-

I am in receipt of various communications from parties, including a motion from Ms. Giordano, counsel for one of the party opponents, asking the Board to determine that compliance with Subtitle C §302.1 is necessary for consideration of Theoretical Subdivision under Subtitle C §305. Mr. Brown, counsel for the other party opponent, has joined in that request. Put more succinctly, they maintain that a variance from lot width and/or lot frontage requirement is required for this theoretical lot application.

Attached hereto is an email from Zoning Administrator LeGrant confirming that Section C-305 allows the Board to waive the lot frontage and width requirements as well as other requirements of record lot subdivision in connection with a Special Exception review of Theoretical Subdivision. **In light of the Zoning Administrator's determination, Applicants request that you deny the pending motion and allow the Applicants to proceed with their case in chief.**

I will also note that Ms. Giordano's motion suggests that a separate Special Exception is needed to allow the proposed driveway width. While we disagree with the substance of her analysis, as a matter of procedure we note that driveway width is an enumerated element of the Theoretical Subdivision Special Exception review in Subtitle C §305.5(b) and thus additional special exception relief would be unnecessary and duplicative.

Therefore, no variances or additional special exception relief is required. We look forward to discussing the project with you, the Board, and the community tomorrow.

Respectfully submitted



Paul Harrison
Applicant

cc: Cynthia Giordano, Andrea Ferster, and David Brown: Counsel for parties
Dipa Mehta, ANC 3F
Elisa Vitale, Office of Planning

Board of Zoning Adjustment
District of Columbia
CASE NO. 20594
EXHIBIT NO. 153A

Paul Harrison

From: LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>
Sent: Tuesday, July 19, 2022 1:42 PM
To: Paul Harrison
Cc: aprince.goulstonstorrs.com; Meghan Hottel-Cox; Vitale, Elisa (OP)
Subject: RE: Request for zoning opinion re BZA Case #20594

Importance: High

Paul Harrison,

Thank you for this summary and I agree with your understanding, as I have listed below:

- The Theoretical Lot provision, Subtitle C Section 305, allows the Board to use the special exception process to waive the provisions of Section C-302.1- the provisions governing the creation of record lots - and approve more than one primary building, on a Record Lot that is underlying the Theoretical Lots.
- Section 302.1 – the section that can be waived under Section C-305 – is the section that requires minimum lot width and frontage compliance. So, if it is waived, no additional relief for minimum lot width or frontage, in the form of a separate Special Exception nor a Variance, is required.
- But the theoretical lot provision is Section C-305 does not dispense with all zoning requirements. It specifically requires compliance with the regulations regarding setbacks and height for example.
- Moreover, the Board is directed to assess the application based on a long and detailed list of Special Exception factors, including lot dimensions, access, and driveway design. This ensures that there is a comprehensive review of potential impacts through the Special Exception process.

Please let me know if you have any further questions.

DISCLAIMER: This email is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this email are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this email. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This email is NOT a “final writing”, as used in Section Y-302.5 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this email based on the information submitted for the Zoning Administrator’s review. Therefore this email does NOT vest an application for zoning or other DCRA approval process (including any vesting provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

Matthew Le Grant
Zoning Administrator
Office of the Zoning Administrator
Dept of Consumer and Regulatory Affairs
1100 4th St SW - Washington, DC 20024
www.dcrd.dc.gov
Phone: Desk 202 442-4652 – Mobile 202-497-1742

From: Paul Harrison <paul@3lobos.com>
Sent: Tuesday, July 19, 2022 11:37 AM
To: LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>

Cc: aprince.goulstonstorrs.com <aprince@goulstonstorrs.com>; Meghan Hottel-Cox <mhottel-cox@goulstonstorrs.com>
Subject: Request for zoning opinion

You don't often get email from paul@3lobos.com. [Learn why this is important](#)

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Dear Administrator LeGrant,

I'm writing because parties in our case (BZA20594) have asked the BZA to make a preliminary determination at our hearing tomorrow that Theoretical Lot subdivision cannot be granted without a variance for lot width and perhaps frontage.

We disagree, and write to see if you agree with our understanding based on the following:

- The Theoretical Lot provision, Subtitle C Section 305, explicitly allows the Board to use the special exception process to waive the provisions of Section 302.1- the provisions governing the creation of record lots - and approve more than one primary building on a record lot.
- Section 302.1 – the section that can be waived under section 305 – is the section that requires minimum lot width and frontage compliance. So, if it is waived, no minimum lot width or frontage is required.
- But the theoretical lot provision is Section 305 does not dispense with all zoning requirements. It specifically requires compliance with the regulations regarding setbacks and height for example. Moreover, the Board is clearly directed to assess the application based on a long and detailed list of Special Exception factors, including lot dimensions, access, and driveway design. This ensures that there is a comprehensive review of potential impacts through the Special Exception process.

Thank you in advance for your review of our understanding that lot width and frontage compliance are not requirements in a theoretical subdivision.

Warmly,

Paul

Want me to do something, or confirm that I want you to? Lock it down here: <https://h.andshake.co/nsv>

Schedule time on my calendar here: (<https://calendly.com/peh/60min>).

Paul Harrison
paul@3lobos.com
(202) 270-5727

DCRA is ready for the future. To learn more about our ambitious plans to further enhance the services we provide District residents and businesses, check out our [5-Year Strategic Plan](#).