

**DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**

One Judiciary Square  
441 4th Street, NW  
Washington, DC 20001

Appeal by DeLorean 88, LLC

BZA Appeal No. 21107

**PRE-HEARING STATEMENT OF  
THE DISTRICT OF COLUMBIA OFFICE OF ZONING**

NOW COMES, the District of Columbia Office of Zoning (“OZ” or “Appellee”) in response to DeLorean 88, LLC’s (“Appellant”) appeal, and it states as follows:

OZ contends that its correction of a digitization error on the now digital zoning map which affected a zone boundary line near the intersection of P Street NW and Wisconsin Avenue NW should be upheld because:

- OZ is the District agency authorized to maintain the zoning map, which includes making technical corrections to digitization errors at any time without prior notice or a hearing, as indicated by the zoning map’s legal disclaimer;
- OZ’s determination that the zoning boundary line coincides with the property lot line is supported by its review of historic zoning maps and the Zoning Regulations, 11-A DCMR § 206.3, which intends for zone boundary lines to coincide with property lot lines; and
- The Board lacks authority to rule on the equitable principles raised by the Appellant.

**I. INTRODUCTION**

Appellant appeals an email determination dated November 9, 2023 (“OZ Email”), sent by OZ Director Sara Bardin regarding the correction of a zoning boundary line abutting the property located at Lot 0854 in Square 1244 (“Property”). Appellant contends that the OZ Email unlawfully amended the Property’s zoning without proper notice and a hearing. Appellant contends that the zoning boundary line encroaches on the Property, and that the Property should therefore be split-

zoned R-3/GT (formerly R-20) and MU-4. Appellant also contends that OZ is bound by principles of equity to retain the erroneous zoning boundary line, and that it was improperly denied a license by the Alcoholic Beverage and Cannabis Board (“ABCA”) as a result of the correction. In fact, the OZ Email did not illegally change the Property’s zoning but instead corrected a digitization error that resulted in a slightly misdrawn zoning boundary line. OZ’s investigation into multiple historic zoning maps confirms that the Property has never been split-zoned and is zoned R-3/GT only. As a result, Appellant’s claims are without merit and its appeal should be denied.

## **II. BACKGROUND**

On November 9, 2023, Director Bardin received an inquiry from ANC 2E Commissioner Christopher Mathews regarding a potential mapping issue involving the zoning boundary line in question. OZ conducted an investigation, determined there was a digitization error affecting the zoning boundary line, and corrected the error that day. Director Bardin then sent the OZ Email to Commissioner Mathews confirming that the zoning map had been updated to reflect the correction. A timeline of events related to the OZ Email is attached hereto as **Exhibit A**.

## **III. ARGUMENT**

For the reasons below, the Board should uphold the zoning boundary line’s current location on the zoning map, which reflects the Property’s location within the R-3/GT zone and outside the MU-4 zone.

### **A. The zoning boundary line was affected by a digitization error.**

Upon receiving Commissioner Mathews’ inquiry, OZ staff investigated the zoning boundary line and concluded that it was slightly misdrawn as a result of a digitization error that occurred when the historic paper zoning maps were converted by hand into a modern digital geographic information system (“GIS”), which is now the zoning map. While uncommon, such

errors are known to result from the digitization process; hence, the zoning map (both 2D and 3D versions) includes a disclaimer displayed at all times informing the public of potential errors, and OZ provides a service to certify a property’s zoning status if requested. A copy of the zoning map disclaimer is attached hereto as **Exhibit B**.

**B. The zoning boundary line is now correctly shown on the zoning map.**

The zoning boundary line’s corrected location is based on OZ’s review of multiple historic zoning maps which all indicate that the zone boundary line lies approximately 78 feet west of the public alley to the east of the Property and runs coincident with the Property’s northeastern lot line. A compilation of the current and historic zoning maps all showing the zoning boundary line as running coincident with the Property’s northeastern lot line is attached hereto as **Exhibit C**.

Appellant requests the Board overturn OZ’s correction and reinstate the erroneous zoning boundary line, which extends as far as 84.29 feet from the eastern alley. In the alternative, Appellant alleges that a 78-foot distance measured from the alley encroaches slightly onto the Property. In its investigation, OZ did find that the distance between the Property’s northeastern lot line and the alley is approximately 77.42 feet based on authoritative GIS real property lot line data provided by the Office of Tax and Revenue and the Office of the Chief Technology Officer. However, OZ’s position is that the zoning boundary line runs coincident with the Property’s lot line, even if the 78-foot distance measured from the alley encroaches slightly onto the Property. OZ’s position that the zoning boundary line runs coincident with the Property’s lot line is supported by both (1) the clearly drawn zoning boundary line (at approximately 78 feet measured from the alley) on the historic paper zoning maps; and (2) the intent of the Zoning Regulations, specifically 11-A DCMR § 206.3, which states that zoning boundaries “are intended to coincide generally with lot lines.”

Further, OZ’s position is that, to the extent the 78-foot distance measured from the alley encroaches slightly onto the Property, it is *de minimis* and does not override the Zoning Regulations’ intent for the zoning boundary line to run coincident with the Property’s lot line. *See* 11-A DCMR § 206.3. For these reasons, OZ determined that the Property’s zone boundary line should be corrected to run coincident with the Property’s lot line. OZ notes that there is no evidence to support the contention that the Property is split-zoned or was ever split-zoned. An excerpt of the relevant zoning regulations is attached hereto as **Exhibit D**.

**C. Appellant’s other arguments are baseless or beyond the purview of the Board.**

Appellant argues that OZ’s determination required notice and a hearing. However, the OZ Email determination was not a zoning map amendment but rather a correction of a digitization error made in accordance with its 11-A DCMR § 205.1 authority to “maintain” the zoning map, which is no longer a physical document, but rather a digital geographic information system (GIS) based on underlying data sourced from multiple historic paper zoning maps.

Appellant asks that ABCA’s denial of its business license application be reversed since the zoning boundary line error existed on the date of its business license application; however, ABCA’s decisions and its licensing matters are outside the Board’s jurisdiction to review or regulate.

Appellant also invokes the equitable principle of laches or estoppel based on its assertion of a vested right in the Property’s erroneous zoning. However, Appellant is not the owner of the Property and has arguably not demonstrated how the facts in these circumstances meet the legal standard it cites in *Speyer v. Barry*, 588 A.2d 1147, 1154 (D.C. 1991). Regardless, the Board’s authority is limited, under 11-A DCMR § 206.7, to determining the exact location of the zone boundary line. The Board has no authority to rule on the merits of the equitable principles raised

by the Appellant. Notably, the Appellant concedes that OZ corrected the digitization error shortly after becoming aware of the issue and before the ABCA denial was rendered.

#### **IV. CONCLUSION**

The OZ Email’s determination should be upheld based on the evidence and the Zoning Regulations. For the aforementioned reasons, OZ requests that the Board deny this appeal.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on September 17, 2024, a copy of the foregoing was sent via electronic mail and/or the electronic filing system (IZIS) to:

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**EXHIBIT A**

**Timeline**

- **November 9, 2023:**
  - ANC 2E Commissioner Mathews emails OZ Director Bardin with a question regarding a potential zoning boundary inaccuracy on the zoning map.
  - Director Bardin calls Commissioner Mathews to discuss the issue.
  - OZ staff investigates the zoning boundary line and finds the digitization error. OZ staff corrects the error on the zoning map based on its review of the 1958 Baist Atlases and other historic zoning maps.
  - Director Bardin sends the OZ Email to Commissioner Mathews informing him of the digitization error and the correction to the zoning map.
- **January 9, 2024:** Appellant’s representative, Mr. Sanjeev Preet, meets with Director Bardin at OZ’s offices where he views historic zoning maps with OZ staff.
- **January 9-17, 2024:** Mr. Preet measures the distance between the alley and Property.

**EXHIBIT B**

**Online Zoning Map Disclaimer**

**DISCLAIMER**

“While DCOZ is committed to providing accurate and timely zoning information via the zoning map, DCOZ cannot guarantee the quality, content, accuracy, or completeness of the information, text, graphics, links, and other items contained therein. All data visualizations on the zoning map should be considered approximate. Information provided in the zoning map should not be used as a substitute for legal, accounting, real estate, business, tax, or other professional advice. DCOZ assumes no liability for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any upon any decision made, action taken, or action not taken by the user in reliance upon any maps or information provided herein. DCOZ retains the right to change any content on its zoning map without prior notice.”

Source: Online Zoning Map for DC, <https://maps.dcoz.dc.gov/zr16/>; *see also* 3D Zoning Map, <https://maps.dcoz.dc.gov/3d/>.



**EXHIBIT C**

**Current and Historic Zoning Maps**

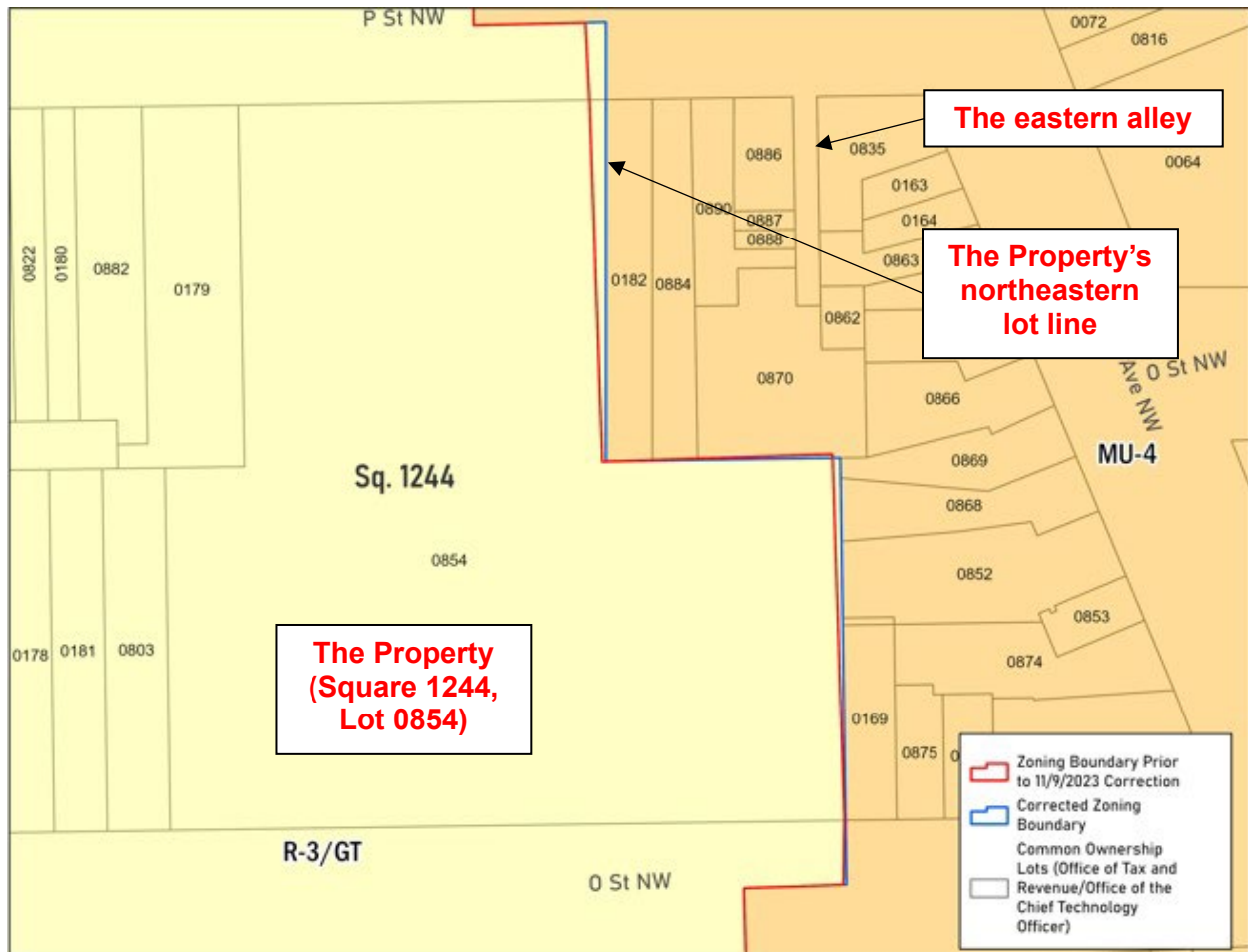


Figure 1: Excerpt from the official zoning map showing the Property.

Red line represents zoning boundary line prior to correction.

Blue line represents zoning boundary line following correction.

**EXHIBIT C**

**Current and Historic Zoning Maps  
(cont’d)**

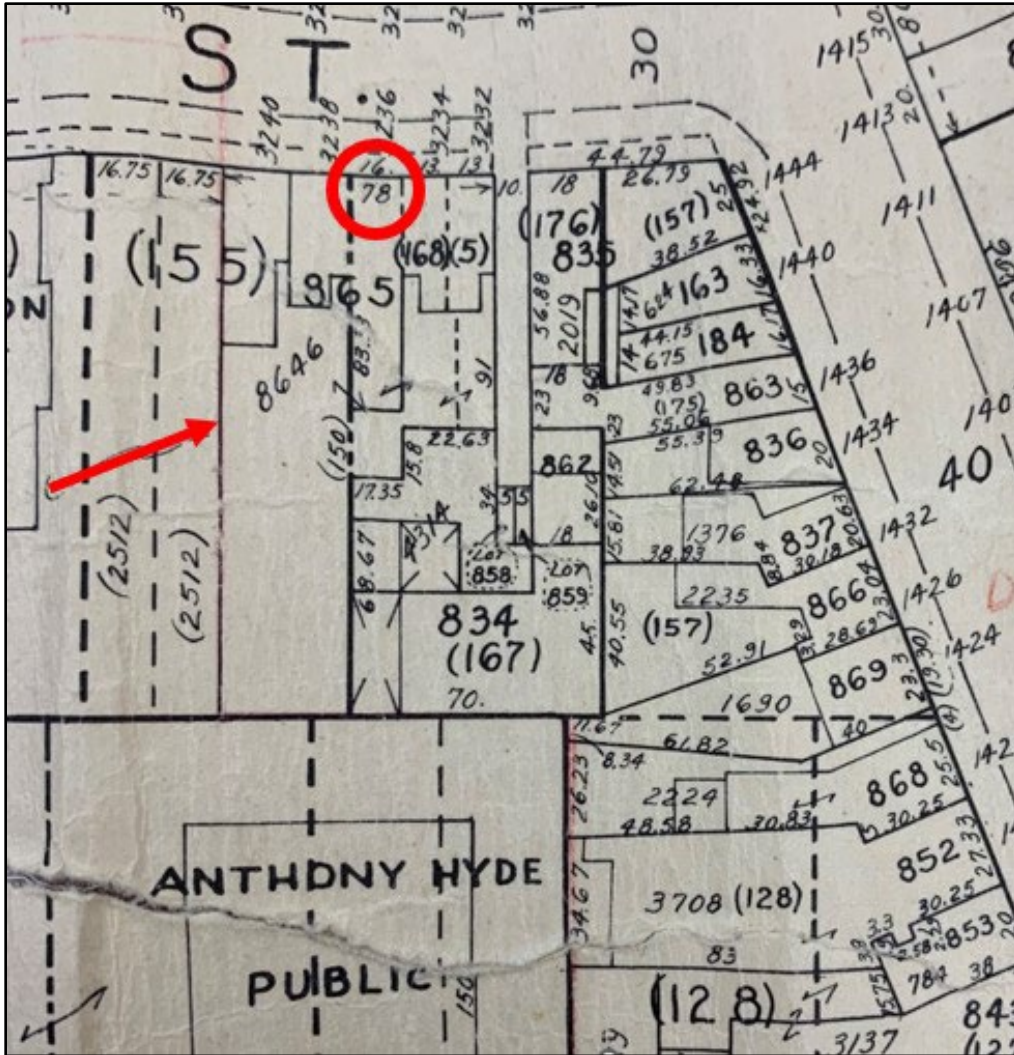


Figure 2: 1958 Baist Atlas Vol. 3 Plan 4 (on file with OZ).

Red arrow indicates historic zoning boundary line (in red) running coincident with Property’s northeastern lot line.

Red circle indicates 78-foot distance between public alley and zoning boundary.

**EXHIBIT C**

**Current and Historic Zoning Maps  
(cont’d)**

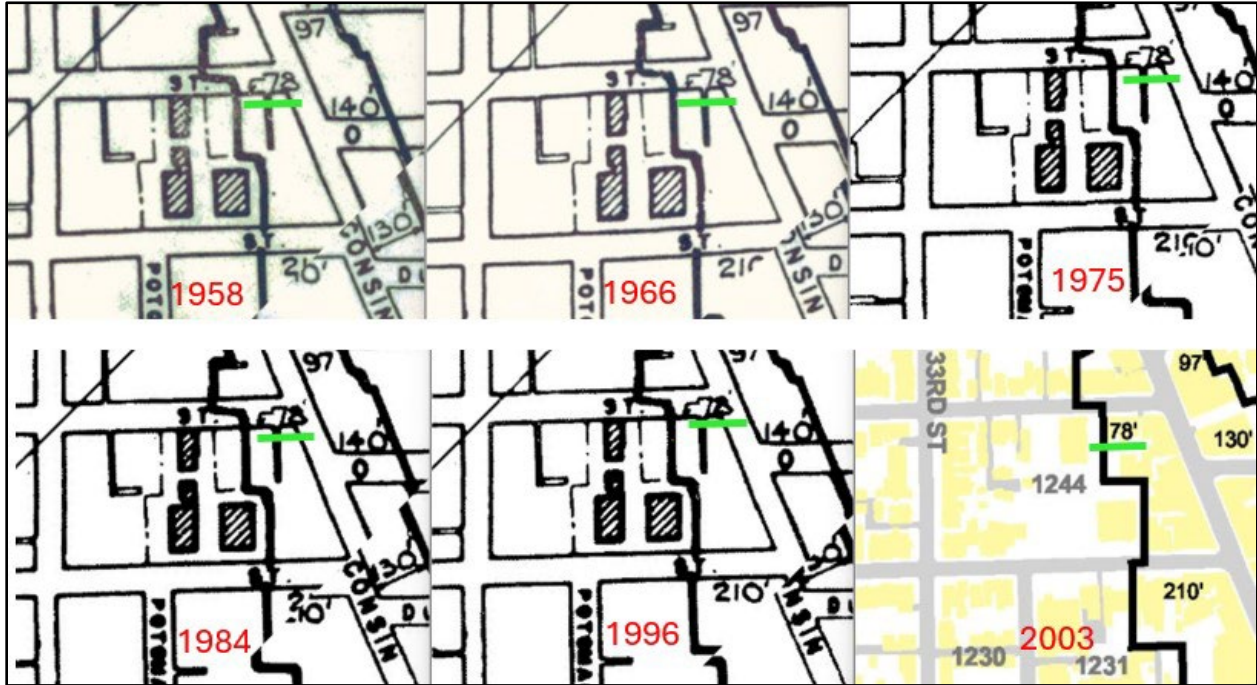


Figure 3: Screenshots of historic zoning maps dating from 1958 to 2003 all showing the 78-foot dimension (underlined in green).

Maps publicly available at [maps.dcoz.dc.gov/historiczoning](https://maps.dcoz.dc.gov/historiczoning).

**EXHIBIT D**

**Zoning Regulations Excerpt**

**TITLE 11 – ZONING  
SUBTITLE A – AUTHORITY AND APPLICABILITY  
CHAPTER 2 – ADMINISTRATIVE AND ZONING REGULATIONS**

**206 ZONE BOUNDARY LINES**

206.1 The zone boundaries shall be shown on each section of the Zoning Map.

206.2 The scale of the Zoning Map and the dimensions entered on the map shall be shown on each section of the map to serve as guides.

**206.3 Dimensioned zone boundaries showing on the Zoning Map are intended to coincide generally with lot lines. Where a dimensional boundary line coincides within one foot (1 ft.) or less with a lot line of a lot of record on May 12, 1958, that boundary line shall be construed to be the lot line at that location. [emphasis added]**

206.4 Whenever a portion of any zone is indicated as a strip paralleling an opened or unopened street, the width of this strip, unless delimited by lot lines or otherwise dimensioned, shall be assumed to be one hundred feet (100 ft.) measured at a right angle from the nearest street to which it is parallel and adjacent.

**206.5 In all other cases, the zone boundary lines shall be intended to follow existing lot lines, the center lines of streets, alleys (including any closed streets or alleys not previously zoned), and natural water courses. [emphasis added]**

206.6 In the case of tidal water areas, the zone boundary shall be either the mean high water level or the established pierhead lines, whichever gives the greatest control.

**206.7 In cases of disagreement or uncertainty existing as to the exact location of a zone boundary line, the Board of Zoning Adjustment, upon appeal filed in accordance with Subtitle Y, shall determine the exact location of the boundary. [emphasis added]**