



Bello, Bello & Associates, LLC

Frederick L. Hill

Chairperson

Board of Zoning Adjustments

441 4th Street NW Room 220 South

Washington, DC 20001

APPLICABILITY OF SUBTITLE C, § 303.3. BZA No. 19978

BRIEF

In probing the applicability of Subtitle C, Chapter 3, § 303.3, applicant concedes that the the term of reference “New alley record lot” may be conflated to include or encompass existing alley tax lots seeking simply to convert through a “subdivision” process, its current tax lot number to a record lot number as mandated by Subtitle A Chapter 3, § 301.3.

The conflation is compounded by the reference to the minimum lot area standards in Subtitle C, § 303.3 (b), which may be erroneously construed to govern provisions pertaining to all alley subdivisions, including the “subdivision” contemplated in the instant case, which simply seeks to convert a tax lot to a record lot, not create a new alley lot not in existing, or reconfigure an existing alley lot

Applicant’s contention is that the central preoccupation of Subtitle C, § 303.3 is “LOT FRONTAGE” in general (see § 303.1) and specifically with respect to alley lots to be created through the subdivision process (see § 303.3 (a)), consistent with the heading of the Section!



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The subdivision provisions are distinguishable from the foregoing “LOT FRONTAGE” provisions and are set forth under Subtitle C, Chapter 3, § 302, as more specifically set forth in respective zone districts.

The applicant contends that the plain text or meaning of Subtitle C, § 303.3 (c) is instructive and provides insight into the intent of these provisions. Subtitle C, § 303.3 (c) basically states that any number of alley lots in existence prior to May 12, 1958, be they record lots or tax lots, are permitted to be combined through a subdivision process into a larger single lot of record, and that the provisions of C, §303.3 (a) and (b) are not applicable in the circumstance

The foregoing provision clearly distinguishes between existing alley lots and “new alley record” lots which may be proposed to be created anew through a true subdivision process.

A true subdivision is one undertaken through the Office of the Surveyor, which without exception always result in a record lot; not to be confused with the “Plats of Computation” process which reposes exclusively within the office of Tax and Revenue (OTR) purview and which inevitably results in the creation of an Assessment & Taxation (A&T or tax lot).

Applicant believes that it goes to reason that if any number of existing alley record lot or tax lots are permitted as a matter of right to combine into a single lot of record through the subdivision process, without the applicability of C, § 303.3 (a) & (b), the “subdivision” to convert the tax lot number of an existing alley into a record lot which does not involve any reconfiguration of or change in the existing lot boundaries cannot be interpreted to be applicable in the circumstance of the instant case before the Board.

The following other pertinent provisions underscore applicant’s foregoing contention and militate against reasonable interpretation that the provisions set forth under C, § 303.3 apply to other than subdivisions proposing the create new alley lots, noting that true subdivision always result in record lot numbers, such that the term of reference “New alley record lots” arguably exhibits a grammatic element of inherent redundancy; to wit:



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- Subtitle E, Chapter 51, §§ 5100.1 and 5100.2. In fact, the plain text of E, § 5100.2 is unambiguous and unequivocal with respect to the fact that the provisions of C, 303 are applicable only to the creation of New alley lots; not existing alley lots, be they tax lots or record lots.
- Subtitle D, § 5100.2 is even more emphatic in citing C, 303.3 as applicable to the creation of new alley lots
- Subtitle U, Chapter 6, § 600.1 (e) (2) and (e) (3) (B), the former allowing the new construction of a one-family dwelling on a 450 ft² lot, and the latter allowing the use such development on an existing alley lot less than 24 feet (15 feet), provided the alley lot is within 300 feet of a street intersection.

The applicant is not unaware of OP's Setdown and Pre-hearing Report before the Zoning Commission (ZC) for a Proposed Text Amendment to the Zoning Regulations Governing Alley Regulations, which implies in part that relief is required to convert existing alley tax lots to alley record lots under current interpretation of the plain text of ZR16.

The applicant respectfully disagrees with that interpretation and contends the cited Provisions above read in tandem, emphatically refute or militates against such interpretation.

In any event if adopted as written the text amendment would, as a matter of right allow the conversion of alley tax lots to alley record lots, provided the alley lot is "greater than 450 ft²"

Applicant contends that there is inherent conflict in pertinent Use Provisions set forth under U, 600.1 (e) (2) and (3) (B), which permit a one-family residential use as a matter of right on an existing alley lot, amongst other conditions, provided the alley lot is at least 450 ft² in size, and which abuts an alley not less than 15 feet, provided the alley is within 300 feet of an improved public street respectively without qualification, and the Provisions of C, 303.3 (a) and (b), which require 24 feet wide alleys and 1,800 ft² minimum lot size or area respectively for "New alley record lots"



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To the extent that there is inherent conflict in the foregoing Provisions and internal conflict within C, 303.3 in general, the applicant believes the plain text and meaning of C, 303.3 (c) resolves any and all conflicts as to the intent of all the provisions combined, because in permitting as a matter of right the consolidation of two or more existing alley lots through the subdivision process, be such lots be tax lots or record lots, without credence to C, 303.3 (a) and (b), it goes to reason that a tax alley lot seeking to convert from a tax lot to a record lot without altering the configuration which predates the adoption of the 1958 Zoning Regulations, as in the instance of this application, be also permitted as a matter of right.

Applicant hopes the Board finds all the foregoing persuasive enough to agree with the applicant's contention that C, 303.3 is not applicable to the subject alley lot application in so far as the subdivision to convert the tax lot to a record lot is not intended to create a new alley record lot.

Respectfully submitted.

Toyé Bello