

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

**Appeal of the Chain Bridge Road/University Terrace
Preservation Committee**

**BZA Appeal No. 20221
Hearing: June 10, 2020
ANC 3D05**

**APPELLANT'S CONSOLIDATED REPLY TO DCRA'S AND PROPERTY OWNER'S
PRE-HEARING STATEMENTS**

The Appellant, the Chain Bridge Road/University Terrace Preservation Committee (“Preservation Committee”), by and through undersigned counsel, respectfully submits this Consolidated Reply to DCRA's and the Property Owner's Pre-Hearing Statements.

Both DCRA and the Property Owner argue that the Zoning Determination Letter and resulting A&T Plat comply with the letter of the Zoning Regulations and that the Board does not have any basis or the authority to find a violation of the Zoning Regulations.

Both arguments are incorrect based on the facts, applicable regulations and the Board’s authority to interpret and apply the Zoning Regulations in a manner that does not result in “absurd results.” *Murray v. District of Columbia Board of Zoning Adjustment, 572A.2d 1055, 1057 (D.C. 1990)* (affirming BZA Appeal 14649 that the Zoning Administrator’s calculation of lot width for an irregularly shaped lot produced an “absurd results”). In Murray, the Court of Appeals concluded and empowered the Board:

Stated otherwise, the Board must have authority to reject subdivided lots that reach minimum lot width requirements only by unnatural application of an otherwise valid method of measurement.

Id.

1. Lot Width

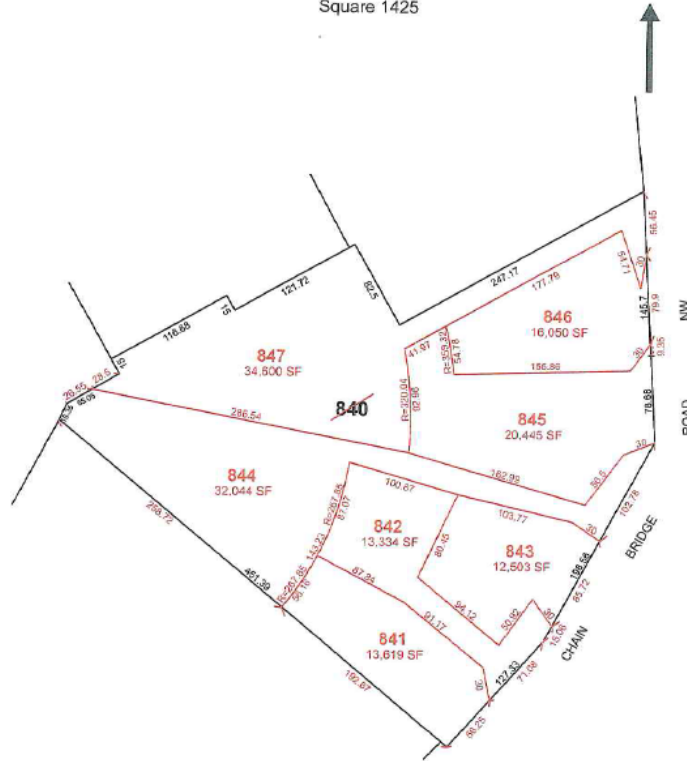
The Zoning Determination Letter correctly determined the obvious – the seven proposed lots were “irregularly shaped.”

OFFICE OF TAX AND REVENUE
ASSESSMENT DIVISION

3884-2



ASSESSMENT AND TAXATION PLAT
Square 1425



More importantly, the Zoning Determination Letter incorrectly stated that:

In the case of an irregularly shaped lot or angular lot lines, the Zoning Regulations provide no specific clarity.

Zoning Determination Letter, page 2.

In fact, the Zoning Regulations provide specific and controlling guidance in this situation. For an irregularly shaped lot, compliance with the lot width requirement cannot properly be determined based on the narrow Rules of Measurement set forth in Subtitle C-§304.1. The Zoning Determination Letter failed to follow the clear and directly applicable guidance provided in the established definition of “Lot Width” set forth in the Zoning Regulations.

Lot Width: The distance between the side lot lines, measured along the building line; except that in the case of an irregularly shaped lot, the width of lot shall be the average distance between side lot lines. Where the building line is on a skew, the width of lot shall be the distance between side lot lines perpendicular to the axis of the lot taken where either side lot line intersects the building line.

Subtitle B-§ 100.2 (Emphasis added).

The Zoning Administrator and the Property Owner have not reviewed or provided the required average lot width calculations for the seven proposed and irregularly shaped lots. Although not specified in the regulations, there are at least four Board recognized methods for calculating average lot width that have been used by the Zoning Administrator historically. BZA Appeals Nos. 15129 and 15136 (1992) (10-foot interval, average, mean depth and greatest depth methods).

In this case, the “Ten-Foot Interval” method seems best suited to the highly irregularly shaped and pipe stem lots proposed. This method is simple to calculate based on linear measurements of the lot width at 10-foot intervals. The total linear length of all lot widths is then divided by the number of 10-foot intervals to calculate the average lot width.

At the request of the Appellant, the former Zoning Administrator, Mr. Olutoye Bello calculated the average lot width for each of the proposed lots using the 10-Foot Interval method.

<u>LOT</u>	<u>TOTAL LINEAR MEASUREMENT</u>	<u># OF 10-FOOT INTERVALS</u>	<u>AVERAGE LOT WIDTH</u>
841	1,322.66	19	69.61
842	1,147.61	20	57.38
843	1,186.91	12	98.9
844	3,405.2	49	69.49
845	2,096.78	21	99.85
846	1,476.21	17	86.84
847	3,292.78	48	68.60

Lots 841, 842, 844 and 847 each have an average lot width less than the minimum 75 feet required. Not surprisingly, the most irregularly-shaped lots, especially the disfavored pipe stem lots, failed to comply with the average lot width required by the Zoning Regulations.

2. Lot Frontage

The Zoning Regulations require that “[w]here a minimum lot width is required, the length of at least one (1) street lot line shall be at least seventy-five percent (75%) of the required lot width.” Subtitle C-§ 303.2. Specifically, in the R-21 zone, the required lot width is seventy-five (75) feet. As a result, the nominal required lot frontage is 56.25 feet. Subtitle D-§ 1302.1. The Zoning Regulations provide no guidance for determining lot frontage, especially for irregularly shaped lots that have been manipulated and contrived to simultaneously and artificially comply with the lot width and lot frontage requirements.

Again, the Murray case empowers the Board to interpret and apply the Zoning Regulations in a common sense manner that does not allow the absurd results proposed by the A&T Plat. The lot frontage requirement was never intended and should not be interpreted to permit the irregularly shaped and pipe stem lots created by the A&T Plat. In this case, the lot frontage created, individually and for all the lots, is entirely artificial, contrived and bears no reasonable relationship to the size, configuration and relationship between the abutting lots. As obvious on its face, each of the lot frontages created was manipulated and configured for the sole purposes of utilizing the limited overall street frontage to maximize the number of lots created. Each and every lot has created a street frontage that is substantially narrower than the overall lot. This is most egregious and unreasonable for the three pipe stem lots (842, 844, and 847), but equally applicable to all seven lots.

3. BZA Approval for a Theoretical Lot Subdivision Required

The proposed seven lot plan was created, submitted by the Property Owner, reviewed, approved and the A&T Plat established as a single, integrated development, not seven separate lots. As a result, compliance with the Zoning Regulations must be an “all or nothing” decision. Any violation of the Zoning Regulations, including the specific lot width violations, requires the Board to revoke the entire A&T Plat. Based on the Proposed Development’s failure to comply with the applicable lot frontage and lot width requirements, development in accordance with the A&T lot will require BZA special exception review and approval for Theoretical Lot Subdivision. Subtitle C-§ 305. Not only is this required, but as suggested by the Preservation Committee, will allow the thoughtful planning of a better, more sensitive and valuable project that can be embraced by the community and the market place.

4. Conclusion

For the foregoing reasons, the A&T Plat accepted by DCRA in violation of the Zoning Regulations and this Appeal must be GRANTED and the A&T Plat REVOKED by DCRA for zoning purposes.

Date: May 27, 2020

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Appellant's Consolidated Reply to DCRA's and Property Owner's Pre-Hearing Statements was filed electronically with the Office of Zoning and was served by electronic mail, this 27th day of May 2020, upon the following:

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