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BOARD OF ZONING ADJUSTMENT
SPECIAL EXCEPTION APPLICATION
APPLICANT'S STATEMENT

Valery and Atalia Portnoi (Applicant)
2032 17th Street NW; Square 150, Lot 158

I. Introduction.

Valery and Atalia Portnoi, the owners of the property and improvements located at 2032 17th Street, N.W., Square 150, Lot 158 (the "Property"), hereby request special exception approval pursuant to §223 of the District of Columbia Zoning Regulations (the "Zoning Regulations"), to allow construction of a two-story rear deck addition to the row dwelling (the "Structure") located on the Property. The Property is located in the R-5-B Zone District. The Structure currently has a lot occupancy of 53%. The maximum permitted lot occupancy for a one-family dwelling or flat in the R-5-B zone district is sixty percent (60%) (11 DCMR 403.2). The Applicant is requesting special exception approval pursuant to §223 to build a deck addition on the rear of the Structure which will result in a lot occupancy of 70%.

II. Description of the Property and Surrounding Neighborhood.

The Structure is located on 17th Street, NW and is an end unit in a series of row dwellings, with a small alley to the south and west (rear) of the Structure.

III. The Application Satisfies Special Exception Requirements of Sections 3104.1 and 223.

A. Overview. Pursuant to Section 3104.1 of the Zoning Regulations, the Board is authorized to grant special exception relief where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject also, in this case, to the specific requirements for relief under §223 of the Zoning Regulations.

In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites are satisfied, the Board ordinarily must grant the application. See, e.g., *Nat'l Cathedral Neighborhood Ass'n. v. D.C. Board of Zoning Adjustment*, 753 A.2d 984, 986 (D.C. 2000). This application provides evidence sufficient to

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show that the Applicant has satisfied the relevant zoning requirements of Sections 3104.1 and 223, as described herein and, therefore, the Application should be approved.

B. Requirements of Section 3104.1.

The granting of a special exception in this case “*will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property...*”. (11 DCMR 3104.1.)

The proposed deck is relatively small – sixteen feet wide by twelve feet long. The homes to the south are across the alley and should not be impacted. The row house to the north may be impacted to a certain extent, but we do not believe that it results in a substantially adverse affect on the use or enjoyment of that property. For these reasons, we believe that the proposed deck will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

C. Requirements of Section 223.

The proposal in this application satisfies the requirements of §223, as follows:

Section 223.2 “*The addition or accessory structure shall not have a substantially adverse affect on the use of enjoyment of any abutting or adjacent dwelling or property, in particular:*

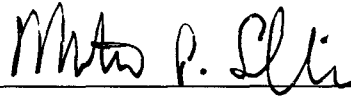
- (a) *The light and air available to neighboring properties shall not be unduly affected:*
- (b) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*
- (c) *The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage; and*
- (d) *In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.”*

The proposed decks are relatively small, will not impact neighbors' light and air, and will not substantially impact the privacy of the neighbors. The deck will be visible from the alley, but will not substantially visually intrude upon the character, scale, and pattern of houses along the street frontage. The Applicant will submit additional renderings and any other information at a later date.

IV. Conclusion.

For the reasons stated above, this application meets the requirements for special exception approval by the Board, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Martin P. Sullivan", is written over a horizontal line.

Martin P. Sullivan, Esq.
Sullivan & Barros, LLP
November 10, 2011