

# ***Bertha G. Holliday, PhD & Associates, LLC***

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September 6, 2012

DC Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW - Suite 200-S1210-S  
Washington, DC 20001

**RE: Application # 18394 (Eric Schultz, 58 Rhode Island Avenue, NW)**

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D.C. OFFICE OF ZONING  
2012 SEP - 7 PM 4:38

## **Introduction**

I am writing to formally notify the Board of Zoning Adjustment of my OPPOSITION to the above indicated application for zoning exception .

I own, work, and reside at 49 T Street, NW – next to 58 Rhode Island, NW (58 RI). I have lived at that address since 2004. As noted in Mr. Schultz’s architectural drawing for his proposed deck, the rear of my house aligns with the rear of 58 RI building. The proposed deck, which is positioned on our property line and 2 feet from a major portion of my house, would present numerous problems for me that are significant, distinct, and unique in their impact on my property.

## **History**

Many of these issues are well-known to and documented by the DC Department of Consumer and Regulatory Affairs (DCRA). I can provide related documentation upon request.

Shortly, after I occupied my 3200 square foot rowhouse property in August/September 2004 (which is attached at the rear and on the left side) , the former owner of 58 RI began construction of a raised deck of similar dimensions as those proposed in the current BZA application. I immediately called DCRA about permits and DCRA immediately issued a “Stop Work” order on 12/21/2004 due to violation of DCMR-12 Section 12 105A -Working without proper permits (DCRA/OAH case # 1701484). The neighbor on the other side of 58 RI also complained to DCRA about encroachment on her property, and even had a survey done to prove her point. Nevertheless, work continued and the deck was completed with its floor being approximately 7 feet from the ground, with a solid plank fence on top of the floor that was in excess of 6feet tall. This fence literally blocked views and sunlight to 4 windows in 3 rooms on my first floor. In addition, I could reach my hand out any of these windows and touch the deck’s fence.

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EXHIBIT NO. 27

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Consequently, I persisted in my efforts to get DCRA to take action—including helping to organize a “Mayor’s Neighborhood Walk” so that senior DCRA officials could see the situation themselves. Finally, approximately 5 years later, the case was sent to the Office of Administrative Hearings, which recommended a lien be effected on the property due to the owner’s unwillingness to correct the deck’s numerous building violations. This was done. In the meanwhile, the deck’s poorly constructed fence had started leaning towards adjacent properties.

Later, 58 RI was placed on the market for sale (potential short sale). The MRIS listing explicitly stated “There is encroachment in the back porch”. The deck, with the exception of its major vertical support elements, was torn down prior to actual sale of the property.

Shortly after the current owner moved in, he mentioned his desire to build a deck using the remaining vertical support elements. I then shared with him my saga with the property and informed him of my lack of desire to see the deck rebuilt. Later, as his deck plans evolved, he kindly shared all of his architectural drawings plans – and I consistently voiced my concern, skepticism, and opposition. I also suggested to the owner that due to the configuration of my home relative to his, the space to be occupied by the deck might meet DC’s definition of a ‘Court’, and encouraged him to submit his plans for DCRA review.

### **Current Concerns**

In 2009, I began major construction of a garage and 1200 square foot 2 bedroom/2 bath rental garden apartment in my basement. Most of the apartment and garage are out of the ground with less than 2 feet below ground level. This was a rather expensive enterprise as one-third of the basement was totally unexcavated, and the remainder of the basement was excavated approximately 1 foot. I sought to construct an apartment that as I grew older, I might readily and willingly occupy. Consequently, entry involves no stairs, ceilings are nearly 8 feet in height, windows are 64 inches tall.

- 1. The floor of the proposed deck (which would be 2 feet from the building) would be ABOVE the top of windows on the east side of the basement apartment, thus blocking light to 3 of the apartment’s 7 windows, and forcing window views dominated by the structural components of the bottom of the deck.**
- 2. This ‘darkening’ of the apartment would significantly negatively impact the apartment’s future rental value, my willingness to eventually live in it, and the resale value of my property.**

The proposed fence/rail on the deck would be of standard height (approximately 42 inches) and not be constructed of solid wood planks. Instead, the owner proposes a fence constructed of wood pillars linked by 2 or 3 rows of metal cabling. Such construction would certainly be responsive to my prior concerns about light blockage to several rooms on my first floor (although the view would still consist of deck fence and the deck’s stairwell). However, the proposed deck fence/rails present other serious concerns.

3. **Due to the distance between the deck and my building (2 feet) and the increase in the height of the deck floor from that of the prior deck (per architectural plans), the proposed deck fence would present serious privacy problems. Persons on the deck could look directly into my house – especially my kitchen and family room – and in the case of a large gathering on the deck, there would be disturbing noise.**
4. **The proposed construction of the deck fence presents even more serious security problems: An intruder could simply break one of my windows adjacent to the deck and walk from the deck into my home. Although I have a security system, it is insufficient to PREVENT such ease of entry.**
5. **The security problem presented by the proposed deck fence would necessitate that I spend thousands of dollars for purchase and installation of security bars into the solid brick surrounding those first floor windows adjacent to the deck.**

As noted above, the prior deck over time began to loosen and lean towards adjacent properties. This eventually tends to happen to all large wood decks regardless of quality of construction. In most cases, such loosening and leaning is of minor consequence. However, due to the near proximity of the proposed deck to my property and the deck's size, such effects of inadequate and/or aging construction are of paramount concern. Good maintenance would alleviate such concerns, but I cannot predict the continuity of ownership and maintenance over time.

6. **Due to the deck's proximity to my property, its size, and the uncertainty of continuity of ownership and maintenance over time, the proposed deck may present over time, a hazard to adjacent properties.**

### **Requested Action**

Nearly all of the above concerns are linked to Mr. Schultz's desire to seek an exception to zoning regulations related to Section 493 (lot occupancy), Section 404 (rear yard), and Section 406 (Court). I believe such exceptions would have a significant and negative impact on my property and its enjoyment.

It is important that BZA understand that, unfortunately, the need for many of the required exceptions are due to the unusual configuration of the block land parcel, which is defined by the unit blocks of Rhode Island Ave. NW, T St. NW, as well as North Capitol St. and 1<sup>st</sup> St., NW. At the west end of this parcel is the intersection of T St., 1<sup>st</sup> St., and Rhode Island Ave. NW., which serve to define the tip of the triangular parcel. From that intersection, as one proceeds east, the triangle gets wider and wider. My house (which is located about 40% of the way east from the intersection on the north side of T Street) is the first house on that side of T St. NW facing that street. 58 RI is the last house from the intersection on the south side of the unit block of RI NW whose rear yard does not abut another rear yard – but instead runs all the way to T St. Consequently, the west side of my house abuts a great deal of rear yard of 58 RI.

**I trust that the BZA will honorably recognize the building construction limitations occasioned by the block land parcel configuration – especially the unusual burden and negative impact it places on me relative to provisions of the 58 RI zoning exceptions application. I strongly urge DENIAL of the requested zoning exceptions.**

I will be present at the September 11, 2012 hearing and willing to address any questions you might have regarding this correspondence.

Respectfully,

A handwritten signature in black ink that reads "Bertha Holliday". The script is cursive and fluid, with the first name "Bertha" and last name "Holliday" clearly legible.

Bertha G. Holliday