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**District of Columbia
Board of Zoning Adjustment
No. 18639**

**Re: 229 12th Street SE, Washington, DC 20003
(Hearing Scheduled for October 22, 2013)**

Revised Statement of Neighbors at 227 12th Street, SE

Statement of Conditional Support

We, John L. Smelter and Catherine A. Flanagan, are the owners of 227 12th Street SE. Our house is adjacent to (first house to the north of) 229 12th Street SE, the property of the applicant New Visions Property, LLC ("Applicant"). On September 30, 2013, we filed a statement in opposition to the Applicant's request for a special exception for a rear addition, on the grounds that the Applicant's proposed addition would unduly impact light and air available to our property. 11 D.C.M.R. §§ 223.2(a) and 3104.1. On October 8, 2013, the Applicant filed revised plans with a new design footprint that would provide a conforming (7-foot) side court adjacent to our property line. Because the design change will reduce light and air impacts on our property, we are prepared to support the Applicant's revised request for zoning relief, on the following conditions. We ask the Board to require the Applicant to continue to work with us to resolve remaining concerns regarding: (1) the Applicant's roof plan, as related to light and air impacts, 11 D.C.M.R. § 223.2(a), and related concerns regarding drainage; and (2) the Applicant's plan for window placement on the north wall of the addition, as related to privacy impacts, 11 D.C.M.R. § 223.2(b).

A. Background

We have worked diligently with the Applicant's president (Justin Sprinzen) to find a compromise that would reduce light and air impacts to our property, while enabling Mr. Sprinzen to meet his apparent goal of maximizing living space and resale value. The Applicant's revised proposed addition is now larger than the Applicant's original proposal (in square footage), occupies a greater percentage of the Applicant's lot, and is configured in a manner that will enable the Applicant to bring much more natural light and air into the addition and historic home. We have agreed to this enlarged massing and configuration – despite substantial impacts to our

light and air and privacy¹ – because we understand Mr. Sprinzen’s rights to develop his property, and we find the revised proposal to be significantly better than the original in terms of overall impacts to our property.

We have not reached agreement with the Applicant, however, on all matters relevant to zoning review. The Applicant was not able to provide us with final renderings for the revised proposal until October 8, 2013 (the date the Applicant’s request was heard by ANC6B) and has not provided any supplemental information in response to the concerns we raised at the ANC hearing. We have two concerns.

1. Roof/Gutter Design

First, the exterior elevations (A0010, A0011, A0013) (Oct. 7, 2013) show an up to 8-inch roof overhang beyond the north and west walls as an apparent ornamental design element. The Applicant’s original permit set did not include this design feature. *See* A0006 & A0008 (original permit set) (showing standard gutter). Nor did we or the Applicant consider a roof overhang in any of the sun/shadow studies utilized to assess impacts.² Given the orientation of our properties to the sun, any roof projection from the addition into the side court would have the same effect, in terms of the daylight blocked and shadow cast, as narrowing the side court. For example, a one-foot overhang on the roof of the Applicant’s addition would block the same daylight and cast the same shadow on our side court and windows as a proposal with only a 6-foot side court. A desire to maximize visible sky and available daylight was the principal motivating factor leading us to support the Applicant’s revised proposal. A roof design element that significantly

¹ The revised proposed addition will bring the Applicant’s lot occupancy to approximately 66%. The occupied area (which excludes the conforming 7-foot side court) will be all two-story building. In comparison, our lot occupancy is approximately 62% including our nonconforming 5-foot side court, or 56% counting building area alone. Approximately 20% of our building area is a low one-story garage.

² The Applicant has not provided a sun/shadow study for his revised proposal (16’ wide by 26’ deep addition with 7’ side court), but did show us a sun/shadow study on the original proposal (23’ wide by 18’ deep addition with no side court) and one modified proposal (23’ wide by 18’ deep addition with a 5’ second-floor setback but no side court). We obtained our own sun/shadow study to assess the impacts of the Applicant’s original proposal and our preferred alternative (16’ by 23’ addition with 7’ side court).

projects into the proposed 7-foot side court would create greater than anticipated light and air impacts on our property and is not consistent with our agreement.³

In subsequent communications, Mr. Sprinzen stated that he does not intend to construct a roof overhang except as necessary for drainage. The Applicant's architect likewise assured us that he can design a conventional roof drainage system for the addition; *i.e.*, a facing board and standard-sized gutter. The Applicant's architect also has indicated that he can design a drainage plan with a separate collection system for the existing roof, to minimize the size of the gutter required for the addition.

Our questions about the Applicant's roof/gutter plans prompted questions about the Applicant's overall drainage plans. After the construction of the Applicant's addition, the properties will have facing side courts and the roof on the addition will slope toward the side courts. On the closed end of our side court, we have a short set of stairs that lead down to our basement door. The area outside our basement door will be two and a half feet lower in elevation than the Applicant's side court. This means that any excess water in the Applicant's side court, if not contained, would flow to the lower ground outside our rear basement door, with the risk of flooding in our basement.

We have not had sufficient opportunity to resolve, with the Applicant, our concerns regarding roof/gutter design as it relates to light and air impacts or as to drainage. Despite the Applicant's representations, the final proposed renderings continue to show a roof overhang on both the north and west elevations as an apparent design element (A0010, A0011) (Oct. 7, 2013). The drawings do not indicate gutter/drainage plans in relation to the overhangs. The Applicant has provided no further drawings or written clarification since the ANC hearing.

2. Window Placement

The Applicant's revised proposed exterior rendering for the north wall shows six windows facing onto the side court: three floor-to ceiling windows on the first floor and three windows on the second floor. (A0011) (Oct. 7, 2013). This window plan does not match the window placement shown on the Applicant's floor plans for either the first or second-floor. (A0007 & A0008)

³ We have no objection to the design element if the Applicant were to set back the wall to compensate for the additional projection.

(Oct. 3, 2013). We assume that the exterior rendering (A0011) represents the Applicant's present intent for window placement, but there is nothing in the project file to formally confirm this point. At the ANC hearing (on October 8, 2013), we asked the Applicant to provide us more information on the exact size and placement of windows, so we could assess whether there will be direct lines of sight into our existing windows that will raise privacy concerns for occupants of both properties.

Our windows are situated mostly toward the front (closed) end of our side court (*see* Statement in Opposition (Sept. 30, 2013), Ex. 1) while the windows on the Applicant's proposed north elevation (A0011) (Oct. 3, 2013) are mostly to the rear (open) end of the side court. There is an existing privacy fence that will separate the courts. And the floors of our house and those of the addition will be offset, because we have an English basement. Given these factors, we believe the Applicant reasonably can design doors and windows facing the side court that will not unduly impact our privacy. But the potential privacy impacts cannot be assessed, per 11 D.C.M.R. § 223.2(b), without more specific information on window placement. The north exterior elevation (A0011) (Oct. 7, 2013) is "not to scale" and lacks any measurements specific to window and door placement.⁴ The Applicant has committed to providing us further information, but has not yet done so.

B. Need for Conditional Approval

As explained, the Applicant has committed to working with us to resolve our remaining concerns regarding roof/gutter design and window placement and we have reason to believe that we will be able to reach agreement on both issues. To date, however, we have no written assurances.

Please note that this is the *second* statement in support that that we have prepared for the Applicant. After a series of emails in which the Applicant insisted that we provide a statement in support prior to the

⁴ The Applicant's drawings also mistakenly show our house as extending 2'6" beyond the end of the proposed addition. *See* A0007, A0008, A0013; *see also* Applicant's Supplemental Statement at 3. Our side court is 24'2" deep. The Applicant's revised proposed addition would be 26' deep, but would begin at the Applicant's present rear wall, which is approximately 2'8" back from our rear wall (facing the side court). This will leave our house approximately 10" deeper than the Applicant's addition. *See* Office of Planning Memorandum (Oct. 15, 2013) at 4 (aerial photo) (showing depth of our house to be roughly the same as neighboring house to south, 231 12th Street SE).

Applicant's filing deadline (and without seeing final proposed renderings), we gave the Applicant such a statement early on October 8, 2013. *See* Applicant's Supplemental Statement, Ex. E. Although we had not yet seen the final renderings, and advised the Applicant by email that it "would be better for us to sign off on the actual drawings," we provided the statement as a good faith gesture, and based on our understanding from prior communications that the Applicant was prepared to agree: (1) that "the roof [of the addition] will not project beyond the addition except as needed to provide a gutter," and (2) "that doors and windows on the side court will be placed at such an angle to prevent direct sight lines into our existing windows." We hoped that Mr. Sprinzen would formally concur with these conditions by filing the statement to memorialize our agreement. We also asked Mr. Sprinzen to "please let us know" if he did file our statement.

Mr. Sprinzen replied by email stating that he found the conditions in our October 8, 2013 statement to be "misleading." Mr. Sprinzen then filed our October 8, 2013 statement not as evidence of mutual agreement, but to support an argument that we had reneged on a promise (that we had not made) to provide "unconditional support" for the revised project. *See* Applicant's Supplemental Statement at 2. Mr. Sprinzen never told us that he had filed the October 8, 2013 statement and never served us with a copy of his amended application and supplemental statement.⁵ Thus, although the Applicant has never expressly disagreed with the conditions in our October 8, 2013 statement, the project record remains unclear as to the Applicant's intended plans for roof/gutter design and window placement.

This uncertainty is exacerbated by the lack of resolution from the review of the Historic Preservation Review Board (HPRB). The Office of Planning reports that the HPRB "did not take final action" but instead "directed the State Office of Historic Preservation (SHPO) staff to work with the Applicant and the Capitol Hill Restoration Society (CHRS) to arrive at a final design solution." *See* Memorandum (Ex. 26) (Oct. 15, 2013). Although we have no particular concern with the historical appropriateness of the Applicant's revised plans, the ongoing historic-preservation review process could implicate roof design and window placement, matters which are of concern to us from a zoning perspective.

⁵ Mr. Sprinzen emailed us revised plans and elevations, but not the revised BZA Application Form 135, the Applicant's Supplemental Statement, or the "correspondence log with neighbors." We just recently obtained these materials on our own from the Zoning Office project file.

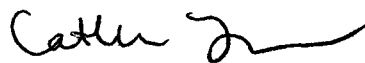
C. Conclusion

Because the Applicant's revised plans reduce adverse impacts to the air and light available to our property (in relation to his original proposal), we are prepared to withdraw our statement in opposition and support the requested special exception, on condition that the Applicant continue to work with us to reach a mutually acceptable resolution of our remaining concerns regarding roof/gutter design and window placement. Given the large scale of the Applicant's addition and substantial impacts on our property, an agreement on these remaining issues along with the changes made in the revised proposal are necessary to ensure that the Applicant meets the standards of 11 D.C.M.R. §§ 233.2(a)-(b) as related to our property. We therefore respectfully request that the Board make any approval subject to the condition that the Applicant shall continue to work with us to obtain agreement on roof/gutter design and window placement.

Respectfully submitted,

October 21, 2013
Date


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