



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



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this distinction.)

Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:

Name:	Frank O. Agbro		
Address:	1702 Kilbourne Place, NW DC 20010.		
Phone No(s):	(202) 667 8846	E Mail:	frankojazz@aol.com
I hereby request to appear and participate as a party in Case No.: 18679			
Signature:			Date:
Will you appear as a(n)	☐ Proponent	☒ Opponent	Will you appear through legal counsel?
☐ Yes ☒ No			
If yes, please enter the name and address of such legal counsel.			

Name:			
Address:			
Phone No(s):		E Mail:	

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

- A list of witnesses who will testify on the party's behalf;
- A summary of the testimony of each witness (Zoning Commission only);
- An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (Zoning Commission only); and
- The total amount of time being requested to present your case (Zoning Commission only).

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

- How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
Safety and other concerns Please see supporting document
- What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
Owner
- What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
Adjacent property owner
- What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
Safety, Transparency See supporting document
- Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
Please see supporting document and precedents
- Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed action than that of other persons in the general public.
Mainly Safety + Health concerns See supporting document

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18679 Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the

EXHIBIT NO. 24

CASE NO. 18679
EXHIBIT NO. 24

Distinguished Board Members,

My name is Frank O. Agbro, representing the Frank and Lara Agbro family at 1702 Kilbourne Place. We are adjacent neighbors of Janet and Richard Barnes, **Application #18679**.

1. ***How will the property owned or occupied by such person or which the person has an interest be affected by the action requested of the Commission/Board?***

We understand that we do not have the authority to determine a fellow neighbor's choices for home improvement and renovation. However, we will naturally object to any precedent-setting decision that would have a negative impact in the enjoyment of our property in which we have lived in for over 16 years with our 3 children. During most of that time, we have worked very hard to establish and maintain good relations with our neighbors.

We wish to inform the Board of a series of events that took place in a previous BZA variance application filed by our neighbors under the names **Richard Barnes and Janet Staihar Application #17919**. (See Exhibit A-drawings)

In that case, we informed the Board about the following events:

- a. We were shown the drawings by Richard Barnes.
- b. Upon careful examination we expressed our concerns about air, light, transparency, health and safety concerns.
- c. Our concerns were ignored and the Barnes proceeded to seek ANC approval for the project without making any changes in their plans.
- d. The ANC votes to approve the project without explanation of the 3 prong- test to justify its support of the project nor did it seek the views of the neighbors who will be impacted most by the construction ie the neighbors who live along the alley. Upon learning of the ANC vote we proceeded to inform those neighbors and others who live in close proximity about the project because it is in full public view.
- e. We submitted a **signed petition** from neighbors opposing the project as supporting documents at the hearing which took place on May 12th, 2009. In signing the petition, many neighbors found it disturbing that as longtime residents and next door neighbor, our views were completely dismissed and ignored without any attempt at seeking compromise. The recurring theme amongst neighbors was " this could be happen to me"
- f. Richard Barnes posted a Notice of Hearing on his fence as required by law but he did so a day before the hearing which was to take place on May 11th, 2009.
- g. The Board denies the application with detailed explanations and justifications. (See **Exhibit B**)

The Board may have noticed the name change in the current application filed as Richard and Janet Barnes. Application #18679

Plans for another project were shown to us by way of ANC Commissioner Phil Greiner who sent it to us through my personal e-mail: Frankojazz@aol.com. Upon review of the drawings, we made the following observations.

a. **Air, light and transparency.**

In the new plans, there was no longer the tall-enclosed structure that would have blatantly “boxed” us in and would have had a “towering” effect on our property as was later described by ANC Commissioner Jack McKay after viewing the location of the proposed structure. The new plans would still create shades and corners and would be visually obstructive from 17th Street side and the alley. In their proposed construction, the Barnes have a wooden fence that separates both houses, this would have an enclosed effect and create hiding spaces and would hinder visibility of our under-deck space from 17th Street side (See **Exhibits C1, C2, C3**)

Health

We are a family with young children and we are concerned about **increased rodent activity** and **defecation** by strays from Mt. Pleasant street which has seen significantly-increased foot traffic in recent years. Almost every weekend, we are woken up in the middle of the night by activity in the back alley and under our deck by late night strays looking for dark areas to hide, defecate, or urinate. We have tackled this problem over the years by ensuring more well-lit and transparent corners and fewer places for rodents to hide or for strays to engage in illegal and unwanted activity.

We believe the structure would create corners and places to hide because our house is (inset) and the big yellow wall already creates a “boxed in” effect along the alley (See **Exhibit D**). Our house would become a prime target and location for people to hide. As one walks down the alley (westwards) the wall ends and the visual experience becomes more open and liberating (**Exhibit E**). Having a structure would be similar to creating another border on the right side when one enters the alley.

Again, having the open spaces, air light and transparency have been very effective deterrents even though there are occasional challenges. The steps we have taken so far have been successful.

Safety

Our children as well as other neighbors’ children can usually be seen playing in the back alley. Our concerns about safety in the back alley have become more **urgent** than previously stated. Please refer to (**Exhibits F1 and F2**) US vs Willie Gray Case#2011-CF3-4365). It was from this angle and line of vision, (**Exhibit G1 and G2**) a transparent view of the 17th Street side of the entrance to the alley, that I, Frank Agbro was able to notice and track the movements of a daytime burglar from my deck. The burglar was en route to a house (1706) along the alley (**See Exhibit H**) The burglar/intruder was later

apprehended by authorities after a 911 call was made by another long time neighbor and resident Ian Stirton and myself. Upon learning about the incident, some of the newer residents moved out because they did not feel safe!.

Alley foot traffic view

The alley has seen increased foot and vehicular traffic in recent years. Upon exiting the alley, one has a panoramic view of 17th Street to anticipate any unforeseen spontaneous events ie vehicles coming in and out of the alley from the northside or balls rolling from children playing in the alley. A structure would create a blind spot that would **increase** the likelihood of accidents occurring. Also, it would obstruct the scenic view exiting the alley in the Spring and Fall and create unnecessary shady areas in the alley. (See **Exhibit I1 and I2**))

For the record, we believe that if this unique and exclusive variance is approved, it would compromise the **safety** and **peace of mind** of our family and the neighbors who live along the alley and eventually others. The structure would undoubtedly obstruct the view of 17th Street (corner and sidewalk) from our deck and will affect our ability to monitor activities in the back alley.

Furthermore, as a result of the experiences from the first variance application # 17919, many residents would view such a decision as rewarding uncompromising and unneighborly conduct with public space and occupancy lot increase for the Barnes' sole benefit and enjoyment while compromising the well-being, safety and quality of life of other neighbors, especially those who reside along the alley who happen to be mostly minorities.

Also, it must be noted here that Richard and Janet Barnes have not made any good faith effort to beautify the unpaved part of the lot (from 17th St. side) that does belong to them without attempting to seek a substantial return (in the form of zoning relief) from the city for that effort. Also the outdoor garden recreational space they have is larger than the average single family home in Mt. Pleasant. (See **Exhibit J**)

In addition, there are other interested parties, notably the children and young new residents who are interested in developing their own community garden for flowers and vegetables on public space (*once it is officially recognized as such*). My family would be committed to that community effort as we have been in other community events such as hosting the Annual Kilbourne Place block Parties and other neighborhood events for several years.

A **community garden** project would serve as a bonding and nurturing event that would have sustaining beneficial value for all in the community. To date there has been no effort by the Barnes to remedy or improve what could otherwise have been a harmonious relationship and one of mutual respect amongst neighbors (especially those who live

along the alley), to justify the sacrifices that those neighbors and others will have to make in the granting of such an **exclusive** variance. We feel that it is important that the Board take note of the fact that our neighbor's request is for a side deck not a rear deck which we believe makes the structure unique and uncommon in Mt. Pleasant.

From our perspective, our experience in this matter is symbolic of some of the negative imposing impact, excesses and arrogance of **gentrification** that many DC neighborhoods have seen in recent years.

We did not solicit signatures from neighbors for the current **Application #18679** or inform the ANC because the facts we are presenting are compelling and speak for themselves, and the circumstances that the Board of Zoning Adjustment alluded to in its decision in the previous **Application #17919**, has even greater significance today.

We humbly ask the Board to consider our concerns during its deliberations.
Thank you.

Respectfully and sincerely,

Frank O. Agbro

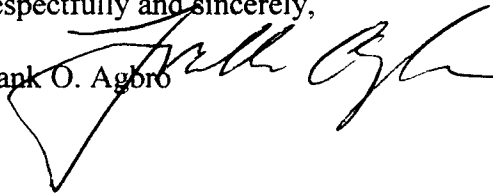
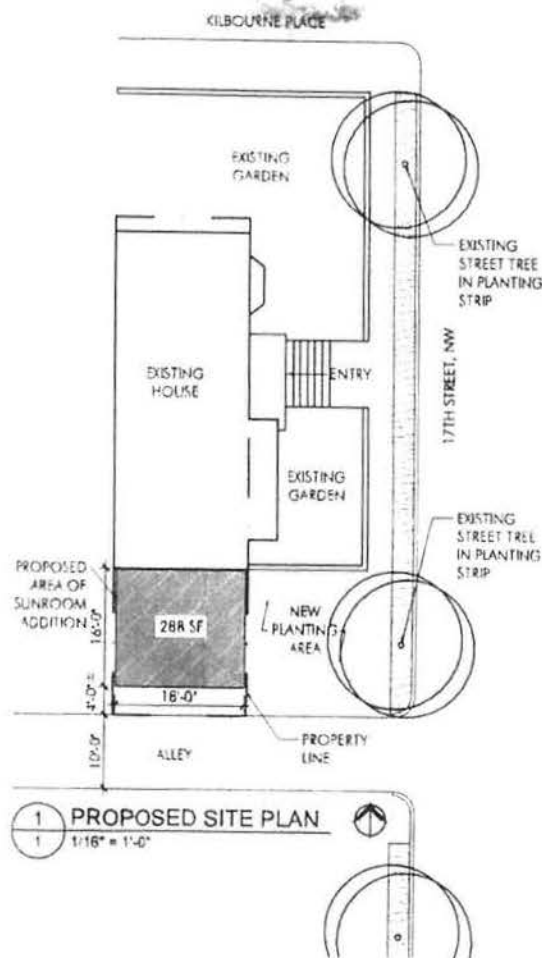
A handwritten signature in black ink, appearing to read 'Frank O. Agbro', written over a large, stylized checkmark or 'V' shape.

Exhibit A.

Exhibit A



PROPOSED ADDITION TO 3150 17TH STREET NW

LIST OF SHEETS:

SHEET 1	COVER & SITE PLAN
SHEET 2	EXISTING CONDITIONS - PHOTOS
SHEET 3	EXISTING CONDITIONS - DRAWINGS
SHEET 4	PROPOSED PLANS
SHEET 5	PROPOSED ELEVATIONS

SUZANE REAT
ARCHITECT
1312 8TH STREET, N.E.
WASHINGTON, D.C. 20003
202.555.1111

BARNES STAIHAR RES CE
3150 17TH STREET NW
WASHINGTON, DC 20010

DATE: 11/11/11
DRAWN BY: J. REAT

DRAWING NO: 1

OWNER: J. REAT

CASE STORY
**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

EXHIBIT E
(P. 1-7)

Application No. 17919 of Richard Barnes and Janet Staihar, pursuant to 11 DCMR § 3103.2, for variances from the lot occupancy requirements under § 403 and the rear yard requirements under § 404.1 of the Zoning Regulations, to permit the construction of a rear addition to an existing one-family row dwelling in the R-4 zone district, at premises located at 3150 17th Street, N.W. (Square 2600, Lot 87).

HEARING DATE: May 12, 2009
DECISION DATE: May 12, 2009

DECISION AND ORDER

Richard Barnes and Janet Staihar (the applicant), filed this application on December 12, 2008 for area variances under § 403.2 (lot occupancy requirements) and 404.1 (rear yard requirements) of the Zoning Regulations. Following a full public hearing, the Board of Zoning Adjustment (the Board) voted to deny the requested relief. A full explanation of the factual and legal basis for this decision follows.

PRELIMINARY MATTERS

Self-Certification

The zoning relief requested in this case was self-certified pursuant to 11 DCMR § 3113.2 (Exhibit 4). The application was self-certified by the applicant's architect, Meagan Mitchell, of Suzanne Reatig Architecture. Ms. Mitchell also appeared at the public hearing on the applicant's behalf.

Notice of Public Hearing

Notice Pursuant to 11 DCMR § 3113.13, notice of the hearing was sent by the Office of Zoning to the applicant, all owners of property within 200 feet of the subject site, Advisory Neighborhood Commission (ANC) 1D, and the District of Columbia Office of Planning (OP).

Posting The applicant posted placards at the property regarding the application and public hearing in accordance with 11 DCMR §§ 3113.14 through 3113.20. It also submitted an affidavit to this effect in accordance with 11 DCMR §§ 3113.19 and 3113.20. (Exhibit 25).

ANC 1D The subject site is located within the jurisdiction of ANC 1D, which is automatically a party to this application. In its report dated May 6, 2009, ANC 1D indicated that at a regularly

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Wg
important

scheduled and legally noticed meeting on April 21, 2009, with a quorum present, the ANC voted to support the application. (Exhibit 26). The report stated that it had "neither issues nor concerns with the proposed zoning variance". Greg Edwards, the ANC vice-chair, presented the ANC report at the public hearing, and testified that "...the statement that there are neither issues nor concerns now is no longer true." (T., p. 22). Mr. Edwards explained that the application had been discussed at a second ANC meeting, and that the ANC considered whether to change its resolution of support. (T., p. 20-22). In response to Board questioning, Mr. Edwards also acknowledged that the ANC had not reviewed the application in accordance with the variance test set forth in § 3103.2 of the Zoning Regulations (T., p. 84-90). ✓

Requests for Party Status There was a request for party status dated April 15, 2009 from Frank Agbro, an adjacent property owner residing at 1702 Kilbourne Place, NW. (Exhibit 22). The request was granted, with no objection from the applicant or the ANC.

Persons in Support/Opposition No persons testified in support or opposition to the application. The Board received letters in support of the application from three neighboring property owners. (Exhibits 20, 21, and 23).

Government Reports

OP Report OP reviewed the variance application and prepared a report recommending denial of the variance requests (Exhibit 24). OP's representative, Karen Thomas, testified that there were no exceptional conditions at the property that warranted the need for zoning relief, and that the proposal would be a detriment to the zone plan.

Historic Preservation Review Office The existing structure is a contributing building in the Mount Pleasant Historic District, so that any permit to alter it would have to be reviewed by the Mayor to determine whether the proposal would be consistent with the applicable principle contained in the Historic Preservation Act. As permitted under the Act, applicant sought "conceptual design review" by the Historic Preservation Office staff before filing for a permit. The non-binding Staff Report and Recommendation concluded that the addition was consistent with the purposes of the Historic Preservation Act. (Exhibit 7).

Request for Continuance Mr. Agbro requested a continuance of the public hearing, claiming that the ANC resolution in support was unfair and that the ANC had not provided adequate notice of its intention to vote on the proposed project. The Board denied this request. Assuming that Mr. Agbro was correct, an ANC report issued without proper notice would not warrant the continuation of the case, but rather would result in the Board not being able to give the ANC great weight. In any event, the Board concludes that proper notice was given and notes that the resolution states as much. Ultimately, the fact that the Board gave great weight to the ANC's advice did not harm Mr. Agbro at all, because the Board found the ANC's advice to be unpersuasive.

FINDINGS OF FACT

The Site and Surrounding Area

1. The subject property is located at 3150 17th Street, NW, Square 2600, Lot 87.
2. Lot 87 is a rectangular shaped lot measuring 18 feet in width and 67.5 feet in length.
3. Lot 87 is a corner lot, situated at the corner of 17th Street and Kilbourne Place, NW. It abuts a 15 foot wide alley at the rear.
4. The lot is located in the R-4 zone district and in the Mount Pleasant Historic District.
5. The lot is improved with a three-story brick row dwelling, with a basement and one parking space.
6. The rear of the property is paved from the alley to the rear wall of the house. Part of the paved area is in the public space, is in poor condition, and is used by others as an unauthorized parking area.

The Proposed Project

7. The applicant proposes to construct a 16 x 16 foot sun room which would be located at the second level of the dwelling. The sun room would be supported on brick piers, with parking below.
8. The sun room would be one story in height and would be fully enclosed by walls, with casement windows on three sides.
9. The applicant also proposes to remove the existing concrete parking area and replace it with a new landscaped area.

The Zoning Relief

10. Although the Zoning Regulations require a minimum lot area of 1,800 square feet, the lot area is only 1,275 square feet. However, because the lot predates the adoption of the Zoning Regulations in 1958, it is a legally non-conforming lot. See, 11 DCMR § 2000.4. However, no expansion of a building located on such a lot may not be enlarged or replaced by a new building unless it complies with all other provisions of [Title 11].” 11 DCMR § 401.1.
- 11 The lot was improved with the existing row house, in excess of the maximum lot occupancy (67 7%), prior to the adoption of the Zoning Regulations in 1958. Because the structure predates the adoption of the Zoning Regulations, it is a legally non-conforming structure.

11 DCMR § 2000.4. However, a structure that is nonconforming as to lot size may not be expanded, 11 DCMR § 2001.3(a) and the enlargement cannot "increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined. 11 DCMR § 2001.3(b)(2).

12. The R-4 district permits a maximum lot occupancy of 60 percent for row dwellings. *See*, 11 DCMR § 403.2. Because the proposed addition will result in a lot occupancy of ~~88.7%~~ ^{of row dwellings by 28%}, the applicant requires variance relief under § 403.2.¹ The request, if granted, would increase the lot occupancy by 20%.
13. The R-4 district requires a minimum rear yard of 20 feet for any structure located in the district. *See*, 11 DCMR § 404.1. Because the proposed addition will reduce the 20-foot rear yard and result in a rear yard of only 4 feet, the applicant requires variance relief under § 404.1.

Exceptional Topography, Shape, and Condition

14. There is nothing exceptional about the shape of Lot 87, which has a typical rectangular shape.
15. There is nothing exceptional about Lot 87's location at a corner. The Board agrees with OP that a corner lot, in and of itself, is not exceptional because there are many corner lots. (T. p. 71).
16. Although Lot 87 is smaller than other lots in the Square (Square 2600), it is similar to nearby lots in the opposite square. The lots opposite it in Square 2602, though a bit wider, are even smaller than Lot 87 (Exhibit 6, Plat).
17. The Board agrees with OP that, when compared to other lots in the District, or the Mount Pleasant Historic District, the size of Lot 87 is not unusual (T.. p. 58).
18. When compared to other lots in the same row (Lots 83, 84, 85 and 86), the depth of Lot 87 is not unusual. (Exhibit 6, Plat). The lots all have about the same depth.

Practical Difficulty

19. The applicant claims that the footprint of the existing house is too small to accommodate a space that could be utilized as a dining room, or a meeting area for business purposes. (Statement, Exhibit 3). However, the Board agrees with OP that the dwelling is not so small as to preclude a reasonably sized dwelling. (Exhibit 24). In addition, the business use

¹ The proposal does not qualify for special exception relief under § 223, because that provision limits the increase in lot occupancy to a maximum of 70 percent

contemplated is not a matter of right in this zone district, except as an accessory use permitted as a home occupation.

The Impact of the Proposed Project

20. Because the property is a corner lot, the proposed rear addition would be viewed along 17th Street as a side addition. The Board finds that the design of the addition would be compatible with other additions in the Mount Pleasant Historic District. (HPRB Report, Exhibit 7).
21. The proposed addition would be taller than other existing additions in the neighborhood. There is an existing deck at the adjacent property located at 1702 Kilbourne Place, which is owned by the party in opposition, Frank Agbro. There are also decks located at other nearby properties. However, the other decks are fairly low transparent structures which are located at the first floor level. (See, photos, Exhibits 5 and 8, and OP Report Aerial, Exhibit 24).
22. The Board agrees with the party in opposition that a tall enclosed structure at the second story level would have a "towering" effect and would result in Mr. Agbro's property being "boxed in".
23. The Board agrees with the party in opposition that the proposed addition would compromise the visibility in the alley, and could lead to potential safety problems.
24. The Board finds that the severity of the variance relief sought – a 20% increase to an existing non-conformity – is significant.

CONCLUSIONS OF LAW

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799), as amended; D.C. Official Code § 6-641.07(g)(3)(2001), to grant variances from the strict application of the Zoning Regulations. As stated above, the applicant here seeks relief from the lot occupancy requirements and the rear yard requirements.

Under the three-prong test for area variances set out in 11 DCMR § 3103.2, an applicant must demonstrate that (1) the property has an exceptional size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property; (2) the applicant/owner will encounter practical difficulty if the Zoning Regulations are strictly applied; and (3) the requested variances will not result in substantial detriment to the public good or the zone plan. *See Gilmartin v District of Columbia Bd of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). In order to prove "practical difficulties," an applicant must demonstrate first,

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that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. *Id.* at 1170.

As to the first prong, the Board finds that there is no exceptional condition at the property. Neither the size, shape, nor location of the lot is exceptional. (See, Findings of Fact 14 – 18). While the lot is a small, substandard lot, there are other similar lots in the nearby vicinity and in the Mount Pleasant Historic District, some of which have a shorter depth than Lot 87. The grandfathering provision of § 401.1 recognized the large number of nonconforming lots that would be created by virtue of adoption of the 1958 regulations and permitted the expansion of existing structures provided that all other area requirements were met. This prerequisite further indicates the Commission's assumption that a substandard lot would not render zoning compliance impracticable.

Since this application fails because it does not satisfy the first prong of the variance test, the application must be denied. However, even were the Board to find that the small size of the lot was exceptional, as explained below, the application would not satisfy the second or third prong of the test.

As to practical difficulty, the applicant has not met its burden in showing that the size of the lot constrains his ability to design an interior dining room space. As noted in the Findings of Fact, the Board agrees with OP and recognizes that, while the dwelling is small, it is still possible to design a reasonable home. (Finding of Fact 19) Simply put, an increase in lot occupancy and expansion of the footprint into the rear yard may be desirable, but it is unnecessary.

Turning to the third prong of the variance test, the Board concludes that the addition would result in a substantial detriment to the public good and to the zone plan. The addition at the second floor level would undoubtedly affect Mr. Agbro's enjoyment of his property. However, any "towering" would affect the public as well, and could also compromise visibility in the alley, leading to potential safety problems in the community. (Findings of Fact 22 and 23). Finally, the Board agrees with OP, that a lot occupancy of almost 89%, would impair the intent of the zone plan. The Court of Appeals has held that the severity of the variance requested is a factor to be considered when assessing a variance application. *Gilmartin, Id.*, at 1171. As stated previously, the applicant seeks to increase the lot occupancy from 67% to over 88%. The Board considers the severity of the relief to be significant, and a factor which mitigates against approval.

ANC Issues and Concerns

Section 13(b) (d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10 (d)(3)(A)) requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. Specifically:

The written rationale of the decision shall articulate with particularity and precision the reasons why the Commission does or does not offer persuasive advice under the circumstances. In so doing, the government entity must articulate specific findings and conclusions with respect to each issue and concern raised by the Commission. Further, the government entity is required to support its position on the record.

In this case, there were no specific issues and concerns raised by the ANC to give great weight to. A simple recommendation of approval does not suffice. For this same reason, the assertion of ANC Vice-Chair of a purported change in the ANC's position is irrelevant. In addition, the great weight requirement relates only to the ANC's written report, and not to its oral comments. *Neighbors United For a Safer Community v. Bd of Zoning Adjustment*, 647 A.2d. 793 (D.C. 1994).

Therefore, for the reasons stated above, it is hereby **ORDERED** that the application is hereby **DENIED**.

VOTE: **3-0-2** (Marc D. Loud, Shane L. Dettman, and Michael G. Turnbull
to DENY; two Board members not participating (vacancies))

Vote taken on May 12, 2009

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Decision and Order.

FINAL DATE OF ORDER: DECEMBER 1, 2009

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.



Sketch of Proposed Deck
3150 17th Street NW
Square 2600, Lot 87

EXHIBIT C2



EXHIBIT
C3



EXHIBIT 2



Exhibit E

1706





U.S. Department of Justice

United States Attorney

District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

October 18, 2011

FRANK AGBRO
1702 KILBOURNE PL, NW
WASHINGTON, DC 20010

Re: UNITED STATES v. WILLIE GARY
Criminal Case No. 2011CF3004365

Dear MR. AGBRO:

A criminal trial in the above-reference case has been set on **11/07/2011, at 9:00AM** in courtroom **215** before Judge **HERBERT B DIXON** at the District of Columbia Superior Court. I am the prosecutor assigned to this case. Please note that the prior notice you received for a November 17 trial date is incorrect.

I have enclosed a subpoena for the trial. The District of Columbia Superior Court is located at 500 Indiana Avenue, N.W., in Washington, D.C.

To help prepare you for your testimony, I would like to meet with you in my office before you testify. Many witnesses find that it is useful to meet with the prosecutor prior to testifying. At the meeting, I can advise you about trial procedures, answer any questions you have, and we can discuss your expected testimony. **An ideal time for our meeting would be 11/02/2011, at 09:00AM.** In hopes that you are agreeable to meeting with me, I have scheduled an appointment to meet with you in my office at that time.

My office is located at the Judiciary Center Building, 555 4th Street, N.W., Washington, D.C. When you arrive, please show this letter, the enclosed subpoena, and some form of identification to the security guards at the front desk. It would be preferable for you to bring identification that includes your photograph, since you are entitled to receive a payment voucher for your meeting with me, as well as your appearance at trial¹. After you register with the guards, you will be directed to my floor. Once there, please check in with the receptionist. The receptionist will inform me that you are here, and I will come out to greet you personally.

¹ Non-Government Employees are paid a witness fee for attending trials and witness conferences. Immediate payment cannot be given to those witnesses who do not bring some form of IDENTIFICATION with them. Witnesses without identification will be sent a check by mail which takes approximately six to eight weeks.

Government Employees get Administrative Leave for their time off from work

While there is parking in the area, because space is limited, I recommend that you use public transportation. The Judiciary Square Metro stop on the Red Line is only one block from my office and the courthouse.

If you have any questions, please do not hesitate to telephone me on 252-6892. Thank you for your cooperation, and I look forward to meeting you soon.

Sincerely,

RONALD C. MACHEN JR.
UNITED STATES ATTORNEY



By: Jin Park
Assistant United States Attorney

enclosure

Superior Court of the District of Columbia

CRIMINAL DIVISION

SUBPOENA

UNITED STATES

vs.

Case No. 2011CF3004365

WILLIE GARY

To: FRANK AGBRO

1702 KILBOURNE PL, NW, WASHINGTON, DC 20010

YOU ARE HEREBY COMMANDED:

To appear before the Criminal Division Courtroom 215 of the Superior Court of the District of Columbia, 500 Indiana Avenue, Washington, D.C., on the 11/07/2011 at 9:00 am as a witness for THE GOVERNMENT

☒ and please bring PROPER IDENTIFICATION AND SUBPOENA

and do not depart from the Court without leave thereof.

WITNESS, the Honorable Chief Judge of the Superior Court of the District of Columbia, and the seal of said Court this 18 day of October, 2011.

FRANCISCO MONTANO

Officer in Charge

DISTRICT 3 (MPD)

District

Jin Park

Attorney for Government/Defendant

Phone No. 252-6892

Clerk, Superior Court
of the District of Columbia

Authorization as required by D.C. Code § 14-307 and *Brown v. U.S.*, 567 A.2d 426 (D.C. 1989), is hereby given for issuance of subpoena for medical records.

Date

Judge

RETURN ON THIS SUBPOENA IS REQUIRED ON OR BEFORE THIS DATE:

☐ I hereby certify that I have personally served, or have executed as shown in "REMARKS," the above subpoena on the individual at the address below.

Name and Title of Individual Served

Address (If different than shown above)

FRANK AGBRO

1702 KILBOURNE PL. NW.

☐ I hereby certify that, after diligent investigation, I am unable to locate the individuals, company, corporation, etc., named in above subpoena for the reason(s) as shown in "REMARKS".

Date(s) of Endeavor

10/19/2011

Date and Time of Service

10/19/2011 @ 1020 AM

REMARKS

Signature of Title of Server

DET. O. LUNA

2F

911 Call

Exhibit F₂

DISPATCHER: D.C. Emergency 911.

CALLER: Yeah, there's a -

DISPATCHER: Dispatcher 8034. Police, fire or ambulance? How may I help you?

CALLER: Yes sir, I think there is a burglar in the place, 1706 Kilbourne Place.

DISPATCHER: You said Kilbourne? K-I-L

CALLER: B-O-U-R-N-E.

DISPATCHER: What did you see going on in sir?

CALLER: I think somebody broke into the window. I saw a black gentleman walk in the back steps, up the steps and into the house and when I went -

DISPATCHER: Is it a vacant house or the house is occupied?

CALLER: It's occupied. But there's nobody inside right now Yeah.

DISPATCHER: Okay, you said that's 1706 Kilbourne Place NW?

CALLER: Yeah, yeah.

DISPATCHER: Okay, give me a description of the guy.

CALLER: It's a black gentleman with a black -

DISPATCHER: Black male, about how tall?

CALLER: Close to 6 feet.

DISPATCHER: About how much did he weigh?

CALLER: Pardon?

DISPATCHER: About how much did he weigh?

CALLER: Probably about 185.

DISPATCHER: And what was he wearing?

CALLER: A black, uhm, a dark blue jacket and he's wearing a dark blue winter hat. Wool hat.

DISPATCHER: Wool hat?

CALLER: Yeah.

DISPATCHER: What type of pants did he have on?

CALLER: I think he had pants on.

DISPATCHER: Do you know about how old he looked to be?

CALLER: I'm sorry?

DISPATCHER: Did you see about how old he looked to be?

CALLER: Probably about in his 40's. Late 30's.

DISPATCHER: He entered the house through the window?

CALLER: Yes, through the back.

DISPATCHER: Do you see a car or anything out front?

CALLER: No.

DISPATCHER: He was by himself?

CALLER: Yes, he was by himself.

DISPATCHER: Okay, can you give me any other description about him? That's it?

CALLER: I'm sorry?

DISPATCHER: Can you give me any other description about him? That was it?

CALLER: No, I think maybe he was wearing sneakers, I'm not sure.

DISPATCHER: He was what?

CALLER: He may be wearing sneakers.

DISPATCHER: Do you want to leave your name and number?

CALLER: [REDACTED]

DISPATCHER: Okay I need you to repeat that address again please?

CALLER: 17 - where it's happening?

DISPATCHER: Yeah

CALLER: 1706 Kilbourne Place

DISPATCHER: That's a private home.

CALLER: Yes

DISPATCHER: Okay, we've got officers in route to that location. okay?

CALLER: Thanks.

Exhibit H 1706



Exhibit 

I1



Exhibit G1

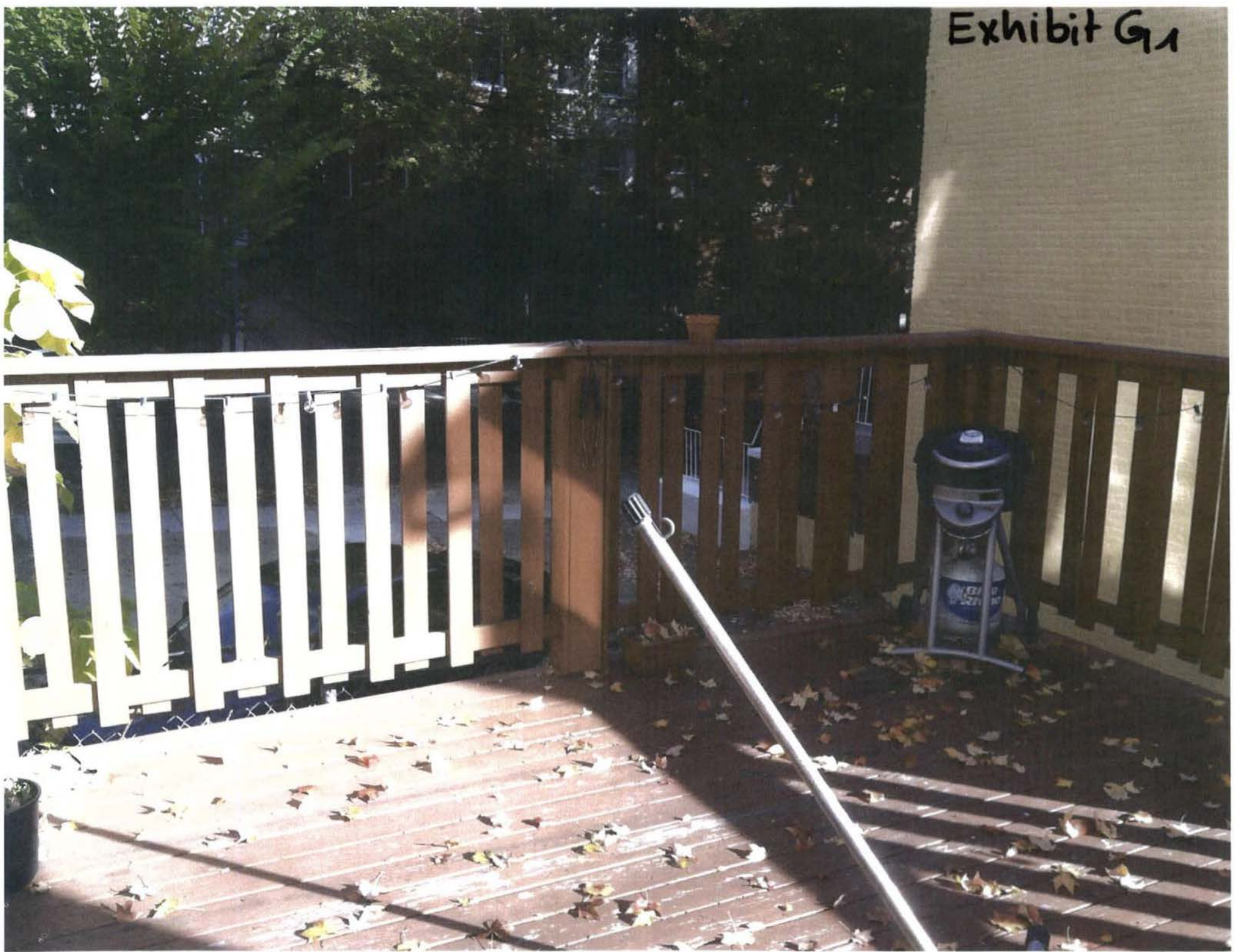


Exhibit G2

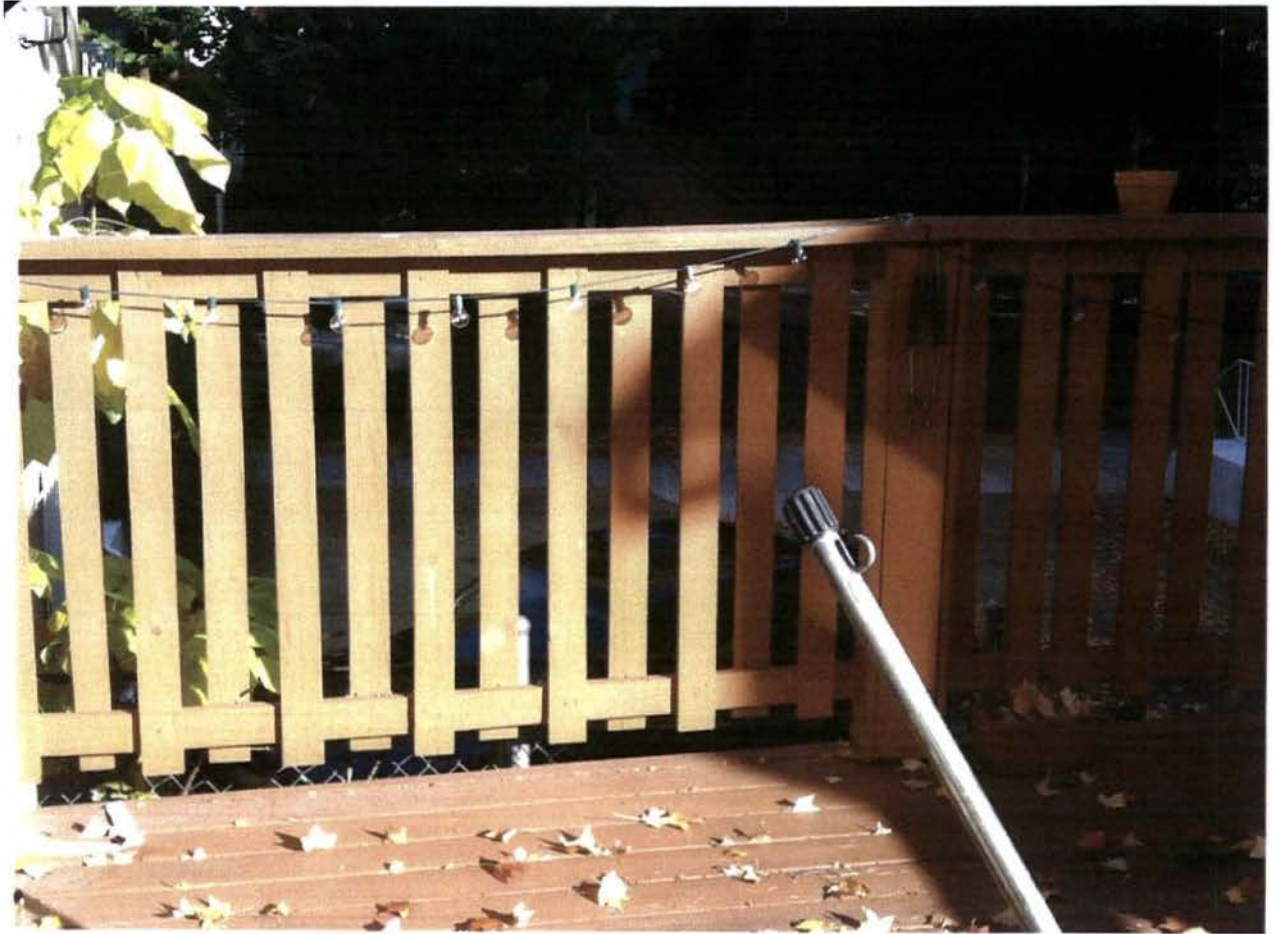


Exhibit ~~000~~ I 2



Exhibit 10J

