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District of Columbia
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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Gyor AICP, Case Manager
Joel Lawson, Associate Director Development Review
DATE: December 10, 2013

SUBJECT: BZA Case 18679, 3150 17th Street NW - request for area variances to accommodate a rear deck addition to an existing row dwelling

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **cannot support** the following:

- § 403.2 Lot Occupancy (67.7% existing, 60% required, 93% proposed);
- § 404.1 Rear Yard (4.5 ft. existing, 20 ft. required, 4.5 ft. proposed); and
- § 2001.3 Non-Conforming Structure.

II. LOCATION AND SITE DESCRIPTION

Address	3150 17 th Street NW
Legal Description	Square 2600, Lot 87
Ward	1
Lot Characteristics	The rectangular shaped lot measures 18 feet in width and 67.5 feet in length and abuts a 15-foot wide alley in the rear. The lot is developed with a 3-story brick dwelling with basement.
Zoning	R-4 – row dwellings are permitted as a matter-of-right.
Existing Development	Three-story single family row dwelling with one parking space, permitted in this zone. The structure was constructed in 1906.
Historic District	Mount Pleasant Historic District
Adjacent Properties	The property is surrounded by row dwellings and is situated at the corner of Kilbourne Place and 17 th Street, NW.
Surrounding Neighborhood Character	The neighborhood is characterized by row dwellings.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18679

EXHIBIT NO. 27

Board of Zoning Adjustment

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III. APPLICATION IN BRIEF

The Applicant proposes to construct a 16' x 16' elevated rear deck attached to an existing one-family row structure (the "Project"). The Subject Property is a legally existing nonconforming lot that predates the adoption of the Zoning Regulations in 1958. The site of the proposed deck is currently used as a paved parking area for the owner and for guest vehicles. Parking on the site would be maintained. The Applicant proposes to replace an existing chain link fence bounding the utility pad below the deck with an ornamental iron fence.

Single family row dwellings and rear decks are permitted in the R-4 district, but are limited to 60% lot occupancy by right and 70% lot occupancy by special exception. The application proposes to cover 93% of the lot and therefore requires lot occupancy relief. Additionally, a minimum 20' rear yard is required, but the proposal would provide only 4.5' and therefore requires relief. The Applicant maintains that because of its corner location and orientation perpendicular to adjacent properties, the Property does not have a rear yard; however, the Zoning Administrator's referral letter indicates that rear yard relief is required. Since the existing dwelling already is non-conforming to lot occupancy and rear yard standards, relief from § 2001.3(a)(b)(1)&(2) is also required.

A proposed sunroom addition on the Subject Property was previously denied by the Board in BZA Case #17919 (2009). The lot occupancy proposed in that case was 88.7%, less that that proposed in this case (93%), although the former case was for an enclosed addition which the current one is for an open deck. The Board found that there was no exceptional condition at the property, including the lot's size, shape, and location. As to practical difficulty, the Board found that the Applicant did not meet its burden in showing that the size of the lot constrained the ability to design an interior dining room space. The Board concluded that the addition would result in a substantial detriment to the public good and to the zone plan.

The residence is a contributing structure in the Mount Pleasant Historic District. As of this writing, the Project has not been reviewed by the Historic Preservation Review Board (HPRB).

IV. ZONING REQUIREMENTS and REQUESTED RELIEF

R-4 Zone	Regulation	Existing	Proposed	Relief
Lot Width § 401	18 ft. min.	18 ft.	18 ft.	None required
Lot Area § 401	1,800 sf. min.	1,215 sf.	1,215 sf.	None required
Lot Occupancy § 403.2	60% max.	69%	93%	Relief required
Rear Yard § 404	20 ft. min.	20 ft.	4.5 ft.	Relief required
Side Yard § 405	NA	NA	NA	None required
Nonconforming Structure § 2001.3	NA	NA	NA	Relief required



Subject Property



Subject Property

V. OFFICE OF PLANNING ANALYSIS

- a. **Variance Relief from § 403.2 (Lot Occupancy), § 404 (Rear Yard), and § 2001.3 (Nonconforming Structures)**
 - i. **Exceptional Situation Resulting in a Practical Difficulty**

OP does not find a specific uniqueness that imposes a practical difficulty for the Applicant. The Subject Property is 1,215 sf. in total area and has no significant grade changes. Other lots in the immediate vicinity are similar to the Subject Property in size. The Subject Property pre-dates the 1958 Zoning Regulations and is already developed with a single family home that covers more than the permitted amount of the lot and rear yard. The square contains other lots, including the abutting dwelling at 1702 Kilbourne Place, that appear to be improved with lot

occupancies in excess of the maximum permitted 60 percent. Some of these may also pre-date the 1958 Zoning Regulations, as OP was unable to locate any recent record of variance approvals on this square.

The Property features do not create a practical difficulty to the owner as it relates to a 16' deep by 16' wide elevated deck. The Applicant has not shown how a patio, which could be installed without any zoning relief, could not be placed within the rear yard.

ii. No Substantial Detriment to the Public Good

OP does not anticipate any detriment to the public good. Other decks presently exist in the subject square. The proposed deck would be elevated, and both visibility at the ground level and the existing parking space would be preserved. According to the Applicant, the neighbor residing at the adjacent residence, 1702 Kilbourne, has no objection to the proposed relief.

The Applicant states that the public space adjacent to the property, including the 1,818 square feet of public space between (but not including) the sidewalks on the north and east sides, and the north and east faces of the structure, comprises the "visual" area of the property. Although there is a large public space adjacent to the Subject Property, it is nevertheless not part of the Subject Property, and is irrelevant to the relief requested in this case.

iii. No Substantial Harm to the Zoning Regulations

Granting variance relief would impair the intent and integrity of the zone plan as no uniqueness of property exist which immediately relates to a practical difficulty for the Applicant. No nexus has been established between the requested lot occupancy increase or rear yard relief and the practical difficulty in making reasonable use of the rear yard for private purposes. The proposed Project would result in a level of development not anticipated in this zone, and not permitted by special exception or under section 2001.3.

VI. COMMUNITY COMMENTS

As of this writing, OP has not received comments from the neighbors. According to the Applicant, ANC 1D voted unanimously to support this application.

VII. CONCLUSION

The lot is smaller than most others in the area, but permits an appropriately and reasonably sized dwelling such as currently exists on the site. The lot occupancy and rear yard regulations are specifically intended to limit the amount of construction on all lots. The proposal, while providing an additional amenity to the residence, would impair the intent of the zone regulations by introducing an excessive amount of development intensity for the zone. Therefore, OP cannot support this application for relief.