

**Statement to accompany new application for deck at 3150 17<sup>th</sup> Street NW**

Statement addresses points 5 D and 5 E of the application instructions

**Statement of Existing and Intended Use**

This property is a single family end-unit rowhouse, circa 1906, consisting of a basement and three stories. It is bounded on the north by Kilbourne Place, on the east by 17<sup>th</sup> Street NW, on the south by a city alley, and on the west by an adjacent rowhouse at 17-2 Kilbourne Place. The house faces east; its main entrance is at the approximate center of the east face. The south 20 feet of the property are used as a paved parking area for owner and guest vehicles, plus a small enclosed concrete pad for two air conditioning compressors. The south face of the house includes a ground level (no steps up or down) entrance to the basement level and an existing exterior door from the kitchen on the main story. This kitchen door apparently once led to a balcony, deck or fire escape, none of which were present when the current owner purchased the house in 2004.

The intended project would add a 16x16 open deck at the second level of the house, accessible from the kitchen through the existing door without steps up or down. The deck would be supported by iron beams complementary to the existing ornamental iron fencing on the north, east and south (partial) sides of the landscaped area of the property. The deck would be surrounded on three sides by an ornamental iron railing consistent with the existing fencing referenced above. The ground level would be repaved in place of the present deteriorated paving, and would be retained as a parking area. There would be no direct access from the parking area to the deck.

Intended use of the deck is for additional seasonal casual living space as part of the present residential use of the property. As can be seen on the drawing of square 2600, the lot, and so the house, are among the smallest in the immediate neighborhood. The main story has only a living room, entry, half-bathroom and combination kitchen/eating area.

**Statement Regarding Tests for Variance**

The intended addition would increase the residence's coverage of the lot by 256 square feet, while still maintaining all of the existing paved parking area and sacrificing none of the existing owner-maintained, well-landscaped area. The intended use would leave a space of four feet between the deck and the vertical plane of the property line bordering the adjacent alley. At the surface, the 20-foot space from the property line to the house would remain. The property has no rear yard because the west wall of the structure, which is its rear, adjoins the east sidewall of the adjacent row house.

The property is 1,215 square feet (67.5 x 18)

BOARD OF ZONING ADJUSTMENT  
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EXHIBIT NO. 4

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The present structure has a footprint of 823 square feet (45 7 x 18) covering 67 7 percent of the property

Because the property is on a corner, it visually includes an additional 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. This public space is 4 6 times the public space associated with each of the adjacent interior row houses that face only one street (Kilbourne Place) The property area plus this public space area, which is fenced (pursuant to permit), well landscaped and maintained by the property owner, constitutes what can be called the “visual” area of the property, or the property as visualized by passersby The visual area totals 3033 square feet. The present structure’s footprint covers 27.1 percent of the visual area. The present structure plus intended addition would cover 36 1 percent of the visual area. Adjacent townhouses cover approximately 53 percent of their visual area

A variance or exception is requested from the following sections of the code

**Section 401 1**

**Section 403 2, maximum percentage of lot occupancy, 60%**

The pre-1958 structure presently covers 67 7% of the lot The addition would increase this coverage to 90 1%, but because the addition is elevated, none of the present visible and accessible ground space would be lost and the ground space coverage would continue at 67 7%. The parking and utility function of this ground space would continue essentially unchanged, but with an improved surface Because of the corner location and extensive landscaped area, the open proportion of the property from a visual standpoint, as discussed above, would remain greater than for adjacent properties.

**Section 404.1, minimum depth of rear yard, 20 feet**

Because of its corner location and orientation perpendicular to the other townhouses in the group to which it is attached (these face Kilbourne Place), the property has no rear yard, and has had none since it was constructed

**Section 405, Side Yards (R),**

This section envisions a side yard for a single-family semi-detached dwelling on the side of the structure opposite the side with the common wall. For this property, with a common west wall, that location is the public area between the east side of the structure and the sidewalk, which is not affected by this proposal The north and south sides of this corner property face a street and alley respectively Section 405 5 provides that a side yard shall not be required along a side street abutting a corner lot in a Residence District The alley is the constructive equivalent of a side street for this purpose because the alley space, like the street space, provides for air and light circulation adjacent to the property Nonetheless, this proposal would still leave substantial open space between the alley and the structure (20 feet at levels 1, 3 and 4 of the dwelling, and 4 feet at the floor plane of level 2, or an average of 16 feet, twice the

minimum side yard requirement where a side yard is required. Note also that the semi-detached dwelling on the opposite (south) side of the alley (3144 17<sup>th</sup> St NW) has no side yard between it and the alley.

The deviation for this proposed addition is permitted by and consistent with the zoning requirements.

Pursuant to Section 101.1, the purpose of the zoning requirements, including the lot coverage provisions relevant to this application, is to promote "the public health, safety, morals, convenience, order, prosperity, and general welfare to

- (a) Provide adequate light and air,
- (b) Prevent undue concentration of population and the overcrowding of land; and
- (c) Provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities, and that will tend to further economy and efficiency in the supply of public services.

Section 407.1(b) permits deviations that do not impair the purpose of the otherwise applicable regulations. This addition does not impair that purpose as stated in Section 101.1 because.

- (a) The elevated open deck does not impair general availability of natural light or circulation of air, and also does not reduce the green space or viewscape associated with the property.
- (b) The addition does not change the use of the property from a single-family residence, so has no impact on concentration of population or overcrowding of land.
- (c) The addition has no impact on distribution of population or any other factor cited in Section 101.1(c)

Section 101.2 provides that the regulations are designed with consideration of the:

- (a) Character of the respective districts,
- (b) Suitability of each district for the uses permitted in each district under this title, and
- (c) Encouragement of the stability of districts and of land values in those districts.

This proposed deck also satisfies the intent of Section 101.2 because

- (a) It is architecturally consistent with the existing structure and neighborhood, which are part of the Mount Pleasant Historic District.
- (b) It creates no new use of the property
- (c) Improvement to the property further encourages the stability of this improving neighborhood and its land values.

Section 3103.2 provides discretion to permit deviation from zoning requirements in cases involving "exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of

exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property ” As discussed above, this lot is smaller than typical for the immediate neighborhood, and has no rear yard because of the orientation of the house. However, because it is bounded on three sides by two streets and a public alley, it has an extraordinarily large public space area between the structure and the sidewalks. This large “visual” space area assures that the proposed addition will not compromise the intent, purpose and integrity of the zone plan, and, accordingly, is consistent with Section 3103.2

For the reasons stated above, this proposal should be permitted because it does not compromise any policy objective of the relevant zoning regulations.

### **Past Action**

In 2008, applicant sought variances for the purpose of erecting a one-story closed addition at the same level and location. The Historic Preservation Review Board approved this addition as consistent with the purposes of the preservation review act. The Advisory Neighborhood Commission (1-D) also approved the addition.

The Board of Zoning Adjustment conducted a hearing on May 12, 2009, on application No. 17919 and then denied the application. The Board noted, among other things:

The 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. 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.”

### **Relation of Past Action to Present Application**

The only party in opposition, Mr. Agbro, stated at an ANC hearing on the 2008 application that he had no objection to a deck similar in concept to his open, wood, 16-by-16 deck. His objection was to a closed room addition.

This new application is for an open deck similar in size and elevation to his immediately adjacent deck at 1702 Kilbourne, except that the support piers and railings would be ornamental iron, consistent with the fencing of the property and two other properties at the same intersection. The deck would be a transparent structure with no “towering” effect or “boxed in” effect on Mr. Agbro’s property. The deck seeks no variance beyond that exercised by Mr. Agbro. An ANC member asked Mr. Agbro his view of the present proposal and he said he had no objection, provided there was no solid wood fence bounding the utility pad below the deck, there is no solid wood fence planned in that location; an ornamental iron fence would replace the present chain link fence.

In its decision on application 17919, the Board applied the three-prong test for area variances set out in 1 DCMR § 3103.2. The conclusions in that application of the test are not applicable to this application.

- **First prong:** The size and configuration of the lot is such that without a variance, applicant would be prohibited from having a deck located in the same position on the lot and similar in configuration to the deck already acceded to by the Board on the adjacent property of the same size. As noted above, the Board recognized the existence of that deck and others nearby.
- **Second prong:** The Board found in 17919 that an increase in lot occupancy was unnecessary for additional interior dining space. In the present case, there is no other place to locate a deck except as requested in the application. The north and east sides of the house are bordered by public space and the west side adjoins the adjacent rowhouse. Only the south portion of the property is available for a deck similar to the deck on the adjacent property and others in the neighborhood.
- **Third prong:** the Board found in 17919 that addition of an enclosed room would result in a substantial detriment to the public good, including the adjacent neighbor's enjoyment of his property. In this application, there is no detriment to the neighboring property or to the immediate area, just as the adjacent neighbor's deck is not viewed as a detriment to applicant's enjoyment of its property.

## **Conclusion**

Applicant respectfully asks the Board to exercise its discretion to approve the requested variances.