

Application No. 18725 of Rafael Romeu and Larissa Leony

Variance Relief to Build a
Rear Deck at 1536 T St NW



BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18725
EXHIBIT NO. 40
MAR 11

Board of Zoning Adjustment
District of Columbia
CASE NO. 18725
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Relief Being Requested

- Lot Occupancy – 60% required - Currently 72%
- Requesting 97%
- Rear Yard – 20 feet required – 14 feet
currently – Requesting .5 feet.
- 2001.3 for additions to structures
nonconforming as to lot occupancy.

Exceptional Conditions

- Zoning Process
- Extraordinarily Small Lot
- Deck Existed Previously
- Easement Restrictions
- Garage Encroachment
- Building's Internal Configuration
- No Rear Alley – Rear Yard Abuts Garage on Perpendicular Lot
- End Unit on a Public Alley

Zoning Process

- November, 2012 - Applicant Hired an Architect Specifically for a Zoning Investigation and Analysis.

Scope of Work for Architect

From the Architect's Scope:

- “your desire to build a deck, create a parking space and to improve the easement access.”

Zoning Approval

- February, 2013 – Architect receives OK from the Zoning Division.
- “We researched DC Archives and retrieved the [2010] permit drawings [which] indicated demolition of an existing rear deck.”

Zoning Approval

- Zoning Division had ample evidence that a 100% lot coverage Deck existed previously with parking underneath, including the demolition permit application from 2010;
- Zoning Division Approved the Issuance of a Building Permit, as Noted in Architect's Feb. 21 letter to the Applicant.

Permit Plans 2010, 100% Lot Coverage

ALTERATIONS TO
1536 T STREET, N.W.
(WASHINGTON, DC 20009)

PROJECT SUMMARY:
ZONING:
STATE: D.C. USE: MULTI-FAMILY RESIDENTIAL. EXISTING CERTIFICATE OF OCCUPANCY FOR 1988. INSULANTS AS FOLLOWS: FLOAT 1.244 ON 1ST, 2ND, & 3RD FLOORS & 1 UNIT IN BASEMENT.

BUILDING CODE:
EXEMPTED CODE: 1995 D.C. BUILDING CODE. COUNTY: 15. 2008 CONSTRUCTION CODE.
USE GROUP: R-1.
CONSTRUCTION TYPE: 1-B.
NOTE: SEE ATTACHED LETTER REQUIRING REVIEW OF PROJECT WITH THE BUILDING OFFICIAL TO VERIFY CODE REQUIREMENTS.

INDEX OF DRAWINGS:
ARCHITECTURAL:
A-1 PROJECT INFORMATION, SURVEY PLAT, NOTES, AND DEMOLITION PLANS BASEMENT AND FIRST FLOOR LEVELS.
A-2 DEMOLITION PLANS SECOND AND THIRD FLOOR LEVELS BASEMENT FLOOR PLAN.
A-3 FIRST FLOOR PLAN, SECOND FLOOR PLAN, THIRD FLOOR PLAN.
A-4 SOUTH ELEVATION (1 REAR), REAR PLANS AND SECTION.
A-5 EAST ELEVATION (1 ALLEY SIDE), SECTIONS.
A-6 STRUCTURAL NOTES & DETAILS.
ELECTRICAL:
E-1 ELECTRICAL SYMBOLS, ABREVIATIONS, AND SPECIFICATIONS.
E-2 ELECTRICAL FLOOR PLANS, BASEMENT & FLOOR 1.
E-3 ELECTRICAL FLOOR PLANS, FLOOR 2 & 3, EXIST. WIRING AND PROPOSED WIRING SCHEDULES.

GENERAL NOTES:
1. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH ORDINANCES IN THE CITY OF WASHINGTON, DC.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE DISTRICT OF COLUMBIA DEPARTMENT OF PERMITTING.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE DISTRICT OF COLUMBIA DEPARTMENT OF PERMITTING.
4. EXISTING CONDITIONS INFORMATION AS SHOWN, AND DEMOLITION PLANS SURVEY OF EXISTING BUILDING, AND MEASUREMENTS OF EXISTING BUILDING BY FIELD SURVEYOR, SHALL BE USED TO DETERMINE THE EXISTING BUILDING CONDITIONS, AND TO THE EXTENT OF THE INFORMATION OF THE SURVEYOR, SHALL BE USED TO DETERMINE THE EXISTING BUILDING CONDITIONS, AND TO THE EXTENT OF THE INFORMATION OF THE SURVEYOR, SHALL BE USED TO DETERMINE THE EXISTING BUILDING CONDITIONS.
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DEMOLITION SYMBOLS:
EXISTING CONSTRUCTION TO REMAIN
EXISTING CONSTRUCTION TO BE REMOVED

NOTE:
PROVIDE EROSION AND SEDIMENT CONTROL MEASURES AS PER CODE, SEE ATTACHED SHEET OF STANDING DOGS SEDIMENT CONTROL DETAILS.

DEMOLITION NOTES:
1. ALL PARTITIONS BACK TO BE REMOVED ARE ASSUMED TO BE NEW LOAD BEARING, GO TO FIELD VERIFY. NOTIFY STRUCTURAL ENGINEER AND ARCHITECT SHOULD LOAD BEARING ELEMENTS BE IDENTIFIED THAT WILL BE AFFECTED BY THE WORK, PRIOR TO COMMENCING WITH THE WORK.
2. REMOVE ALL REMAINING WIRING, PIPING, AND JUST WORK.
3. D.C. TO PROVIDE ADEQUATE SHORING TO SUPPORT EXISTING CONSTRUCTION TO BE RETAINED, PRIOR TO DEMOLISHING EXISTING SUBSYSTEMS TO BE REMOVED.
4. REMOVE EXISTING WROUGHT FLOORING ON ALL FLOOR LEVELS. INSTALL NEW 4" x 8" PLYWOOD SUB FLOORING THRU OUT IN ALL AREAS. OR TO CONSULT WITH STRUCTURAL ENGINEER TO DETERMINE SEQUENCE OF WORK, PRIOR TO COMMENCING WITH THE WORK.

NOTE: CUT, CAP AND MAKE SAFE ALL TRADES.

DEMOLITION PLAN - BASEMENT
SCALE: 1/4" = 1'-0"

DEMOLITION PLAN - FIRST FLOOR
SCALE: 1/4" = 1'-0"

THE CARLIN COMPANY
ARCHITECTURE
ENGINEERING
PLANNING

430 TRINITY STREET
ALEXANDRIA, VIRGINIA 22304

VOICE: 703.544.7766
FAX: 703.544.7766
email: carlinco@comcast.net

PROJECT:
ALTERATIONS TO
1536 T STREET NW
WASHINGTON, DC

SHEET TITLE:
PROJECT INFORMATION
SURVEY PLAT
DEMOLITION PLANS
BASEMENT AND FIRST
FLOOR LEVELS

DATE: 10/20/10
PROJECT NO.: 1000-00
SCALE: AS NOTED
DATE: 10/20/10
APP.: 1/100

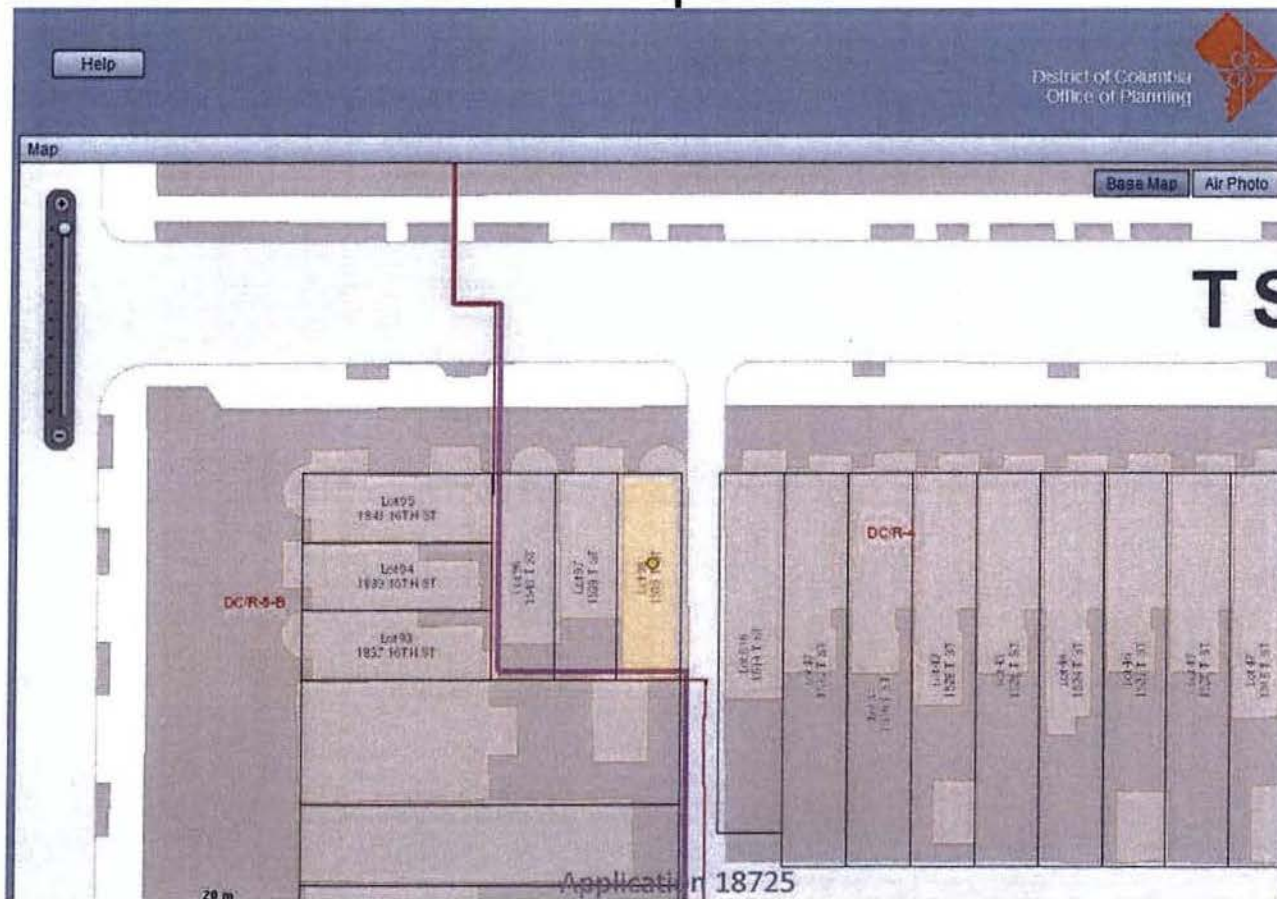
REVISIONS:

SEAL:

SHEET NO.:
A-1

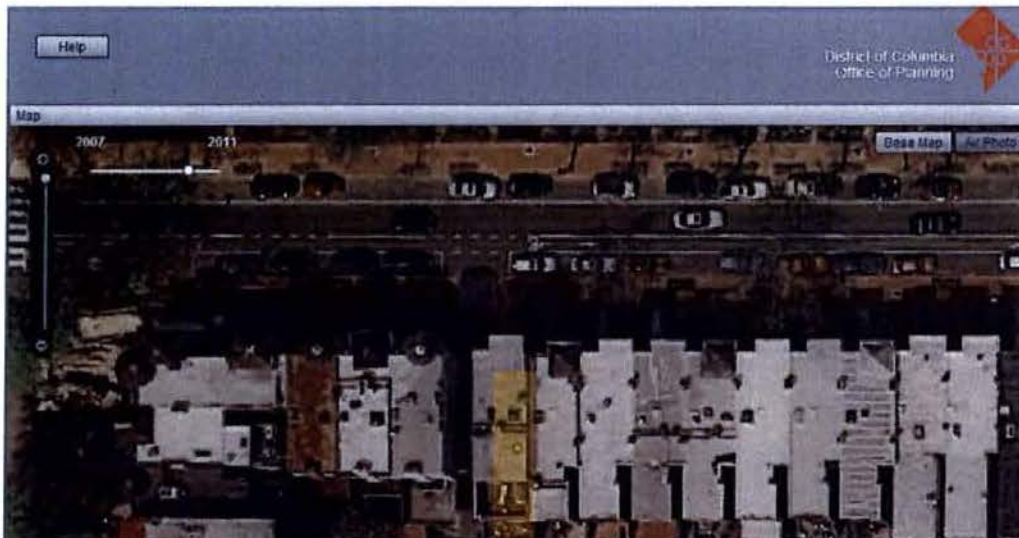
Other Evidence of the Previous Deck

- Property Quest, the website tool developed by the DC Office of Planning and using information from DCGIS shows a 100% shaded footprint:



Previous Deck

- Property Quest Aerial View from 2010, Showing a “100%” Deck:



Previous Deck

- Series of Aerial Photos.



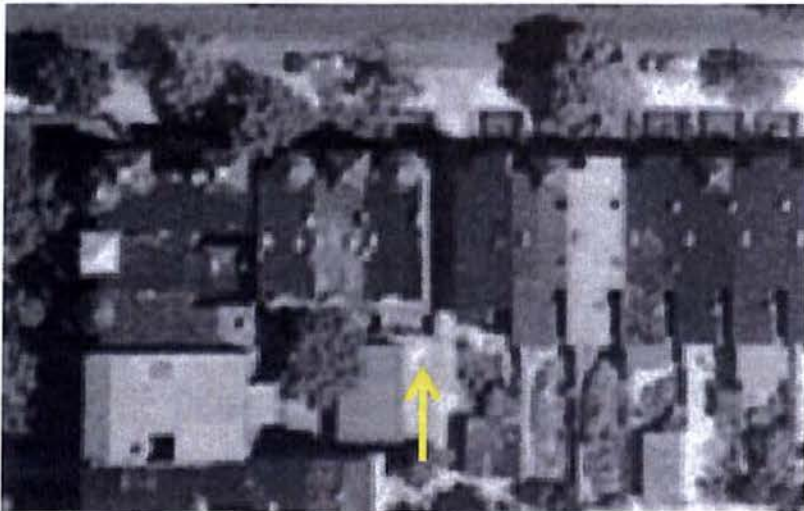
Previous Deck

- Aerial Photos.



Previous Deck

1951



2005



Application 18725

1999



2002



2008



MORRIS ARCHITECTS

60 MARKET STREET, #204 GAITHERSBURG, MD 20878
TEL 301-527-1002 FAX 301-527-1003

February 21, 2013

Mr. Rafael Romeu
1536 T Street, N.W.
Washington, DC 20009

Re: 1536 T Street, N.W.

Dear Rafael:

We are pleased to submit this summary letter of our preliminary zoning consultation for a rear deck for your house.

Your existing house at 1536 T Street, N.W. is located in an R-4 zoning district. The existing house currently occupies about 72% of the lot, in excess of the maximum allowable lot occupancy of 60%. We consulted with Jeannette Anderson, a Zoning Technician at the DC Department of Consumer and Regulatory Affairs in order to explore possibilities for a rear deck or rear steps for your house. Ms. Anderson notified us that if evidence could be obtained showing a previously existing rear deck, it might be possible to proceed with plans for a new rear deck. We researched DC Archives and retrieved the permit application documents from a building permit application from 2010. These drawings indicated demolition of an existing rear deck. We forwarded the relevant drawings to Ms. Anderson for her review. Ms. Anderson replied that we could indeed proceed with a permit application for a rear deck based on this evidence.

Any rear deck design will be affected by any constraints the existing easement agreement which exists at the rear three feet of your lot. It will be helpful to obtain the text of this easement in order to determine the details which may impact the deck design.

We have enjoyed working with you on this project and we are pleased to report this good news.

Sincerely yours,



F. William Morris

Practical Difficulty Resulting from the Zoning Process

- Rafael and Larissa Reasonably Relied in Good Faith on that Building Permit, to Their Substantial Detriment.
- They have respected the process completely, including halting construction despite having a valid permit through December 2013;

Practical Difficulty

Situation in the Applicant's Rear Yard upon his Purchase in 2012:



Practical Difficulty

Current Situation:



Practical Difficulty

Restoring the yard
adds \$7,800 in costs:

SLK CONSTRUCTION
8557 HORSESHOE LANE
POTOMAC, MARYLAND 20854

March 7, 2014

Mr. Rafael Romeu
1536 T Street, N.W.
Washington, DC 20009

RE: 1536 T STREET, N.W. DECK PROJECT

Dear Mr. Romeu,

This letter is in response to your request for a construction cost proposal from SLK Construction to restore your rear yard to pre-construction conditions.

SLK Construction proposes to restore your yard to the existing conditions when we first commenced building the rear deck at your property for a sum of \$7,800. This includes filling in the holes we excavated, restoring the paving, repair of the fence as necessary, and cleaning up the site.

Sincerely,



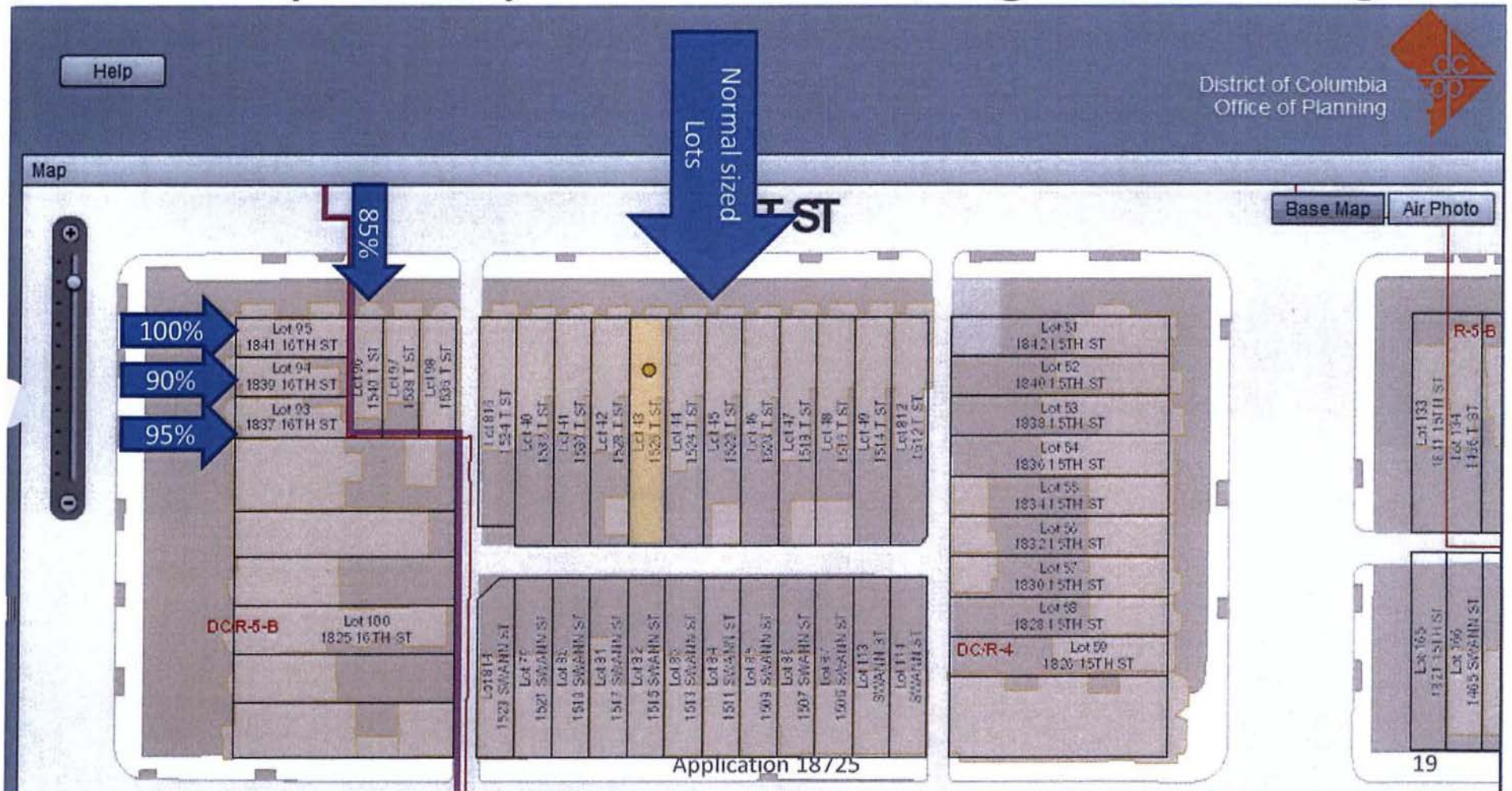
Sergey Kovalchuk
President, SLK Construction

Practical Difficulty

- Applicant Has Spent Over \$32,000 on materials, contractor work and storage, and over \$15,000 on architectural plans and revisions in Reliance on the Building Permit, with Nothing to Show for it.
- Applicant Has Demolished a Patio and Rear Yard in Reliance on the Building Permit, restoration cost is currently estimated an additional \$7,800.

Exceptionally Small Lot size, high lot coverage

- Exceptionally Small Lot size, high lot coverage



Other Exceptional Conditions and Their Resulting Practical Difficulties

- 3-foot wide easement at the rear of the Property
- 8" encroachment from Garage on the abutting lot.
- Applicant's only access to the rear yard is on the first floor, therefore requiring a 3-foot wide stairway to get access to the rear of his property.
- Applicant has no buffer from alley crime, security, privacy, safety or traffic concerns; *Neighbors have applicant's yard as a buffer;*

Other Exceptional Conditions and Their Resulting Practical Difficulties

- The Extraordinary Conditions of the small lot size, the encroachment, the easement, the stairway, and the alley, combine to make strict compliance with the Zoning Regulations unnecessarily burdensome.
- The above items represent almost half of the entire Rear Yard.

Other Exceptional Conditions and Their Resulting Practical Difficulties

- Internal Configuration of the House – There is no egress from the Applicant's house to the rear yard.
- In conjunction with the easement, encroachment, and lack of protection from alley, this causes practical difficulty in having and using their rear yard.

No Substantial Detriment to the Public Good

Private Easements Not Within the Board's Jurisdiction.

BZA Case No. 14491, when considering testimony from a neighbor that a development would impede his access to the adjacent alley, the Board stated that:

“The Board further finds that the opposition concerns about easements across private property are not zoning issues and are not within the jurisdiction of the Board.”

No Substantial Detriment to the Public Good

Nevertheless:

- From the very beginning, the Applicant has been focused on protecting the easement. See original Scope of Work letter from the architect.

No Substantial Detriment to the Public Good

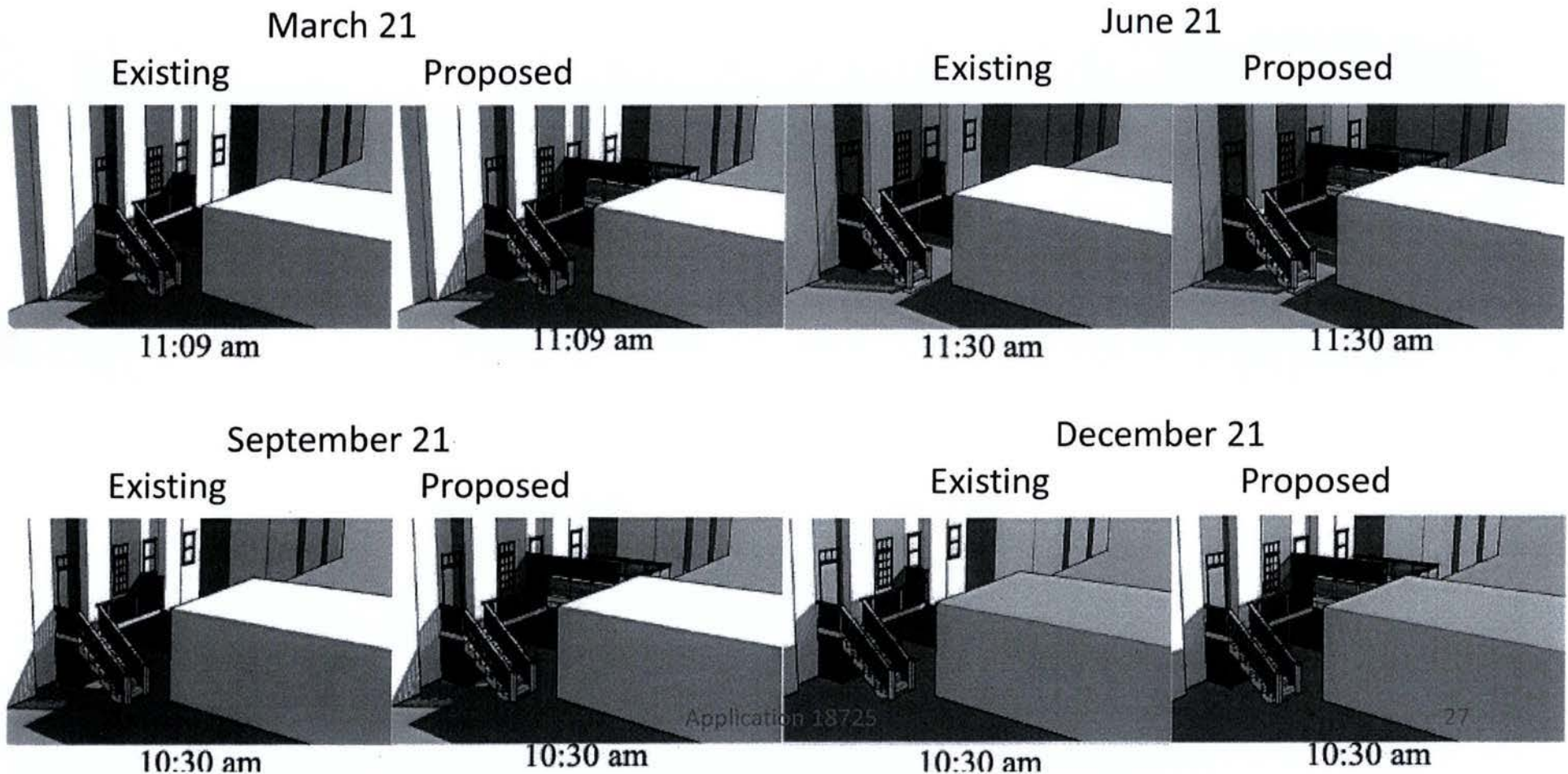
- The new Easement path will be wider than it is currently; with more than 7 feet of clearance.
- In addition to being wider, there is more room around the 3-foot easement, if needed. There will be two columns where there previously was a solid fence. (Actually, the area will be less confining).

No Substantial Detriment to the Public Good

- The proposed deck includes louvered wooden slats to enhance Mr. Hill's privacy.
- The Sun Studies show minimal impacts from the deck on Mr. Hill's property.

No Substantial Detriment to the Public Good

- For each quarterly sun study, we show the strongest impact:



No Substantial Detriment to the Public Good

- Project will provide a parking space.
- Project will improve the easement.
- Project will bring owner presence to crime-ridden alley;
- Application supported by neighbor to the east.
- Application supported by ANC 2B.

No Substantial Detriment to the Integrity of the Zone Plan

- The Board and the Office of Planning have both supported a BZA application for a deck based on the extraordinary situation of an applicant relying on a zoning approval in a building permit. Order No. 17264
- This case is stronger than that case.

No Substantial Detriment to the Integrity of the Zone Plan

- In this case, the Applicant was open, transparent, and diligent in its quest to determine whether or not the deck was permitted.
- No reason not to rely on the assurances of the Zoning Division and the issuance of the Building Permit.

No Substantial Detriment to the Integrity of the Zone Plan

- **Extremely Unique** – The issuance of the Building Permit, and the zoning process in general, are the most critical extraordinary conditions causing a practical difficulty to the Applicant
- Numerous other unique conditions add to practical difficulty, including:
 - Extremely small lot size,
 - Easement restriction further reducing yard space,
 - Neighboring garage encroachment,
 - Internal house configuration – first floor is main level,
 - No buffer from abutting alley's crime, traffic, privacy.

Response to Neighbor Concerns

- Removed the Security Gate
- Moved the Columns Away from the Garage and off the Easement Area
- Demarcated the Easement Area with Columns and Bollards, Ensuring a Car Could Not Touch the Easement
- Louvered Slats on the Deck for Privacy; while Allowing Light and Air
- Sun Studies to Assure There Will Be No Significant Impact on Sunlight

End of Testimony