

Testimony Before the Board of Zoning Adjustment for 1536 T St NW (#18725)

Noah Smith, ANC 2B09

March 11, 2014

Good morning, Chairperson Johnson and members of the Board. My name is Noah

Smith, I am the ANC Commissioner for single member district 2B09, which includes 1536 T St NW; I am also the Vice-Chair of the Dupont Circle ANC. Thank you very much for the opportunity to testify today on behalf of the ANC and thank you for your hard and often thankless work that you do for the District. I have had the chance to testify before the Historic Preservation Review Board several times, though this is my first time before the BZA – its nice to meet you all.

I have copies of the ANC's official resolution if you have not seen it. I also ask that a copy be placed into the record if it not already.

Today we are discussing a zoning variance application for the construction of a deck in the rear of 1536 T St NW. I'm going to provide a little history on the case, discuss the ANCs process in passing a resolution in support of the variance, and discuss why we think approving the variance is good for the applicant and the neighborhood.

As I'm sure you're aware, there is some relevant history to this application. I first heard about this in the middle of last year when I received notice of an appeal to a DCRA building permit for the deck. DCRA revoked the permit after the applicant had begun construction and the appeal was never decided on. I decided not to get involved with the appeal because it is a matter between the appellant, the Zoning Administrator and the BZA and the neighborhood could not contribute to the technical arguments being made. The residents of 1536 T then applied for a variance to use 97% lot occupancy for the construction of their rear deck and that's when the ANC became involved.

I knew from the beginning that this was not going to be an application without some conflict. I had read the October 2013 appeal of the immediate next-door neighbor to the building

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permit and it used phrases like “ugly behemoth deck/carport/garage structure”, “ugly, industrial, canyon feeling”, “ugly eyesore” and “ugly box” – so I figured there was some disagreement among the neighbors. I also spoke with the neighbor, Mr. Hill, on the phone before the permit was revoked and he described his concerns with the possible extinguishing of a 3-foot easement in the rear of the property and some privacy concerns.

After meeting with the applicant to review drawings and get an understanding of the project, I asked him to reach out to his direct neighbors who he had been in contact with previously and set up a meeting. Our ANC has a committee process where the week before a commission meeting, we have a Zoning, Preservation and Development Committee meeting to review complex projects and ask in depth questions. I usually like to have an additional meeting before that committee meets, but we couldn’t get the parties together in time.

Our first meeting of the supporting and opposing parties together was less than amicable. We spent about an hour re-litigating the previous appeal with little progress on the matter at hand. We finally agreed that the architects would come to the next week’s ANC meeting with drawings of plans to alleviate concerns about privacy from the next-door neighbor.

During the week between meetings, there were dozens of emails back and forth among the parties discussing specific concerns and possible solutions. Early and often, I encouraged the parties to reach out to each other and simply say what was on their mind. I reminded them that at the end of the day, they still had to be neighbors and that finding compromise was key.

At that ANC meeting on February 17<sup>th</sup>, we spent over an hour of full Commission time on this matter. This should be noted not only because it shows that all parties had a chance to speak if they so chose, but also because we only very rarely spend more than 15 minutes on an individual project. That night we had a 4.5 hour meeting, 15 minutes of which was spent

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discussing the transition of the historic Patterson Mansion on Dupont Circle to apartments and

well over an hour discussing a rear deck.

There is clearly tension among the neighbors – I tell you this not to highlight it, but to indicate that it was difficult to determine specific concerns and solutions throughout the process and to find compromise from the ANC perspective. As our Chairman likes to say, the ANC is a process – we are not zoning experts nor architects – we are neighbors and we facilitate a process that lets voices be heard, concerns raised and solutions found. Unfortunately, we could not find a perfect compromise here as there are still those opposed to the variance. In the end, we voted 4-2-1 to support the variance subject to several conditions, which I will describe momentarily along with our reasoning for supporting the application:

- 1) Though the lot occupancy is large, we recognize unique circumstances with the layout and design of this variance such that we support it and also do not believe it should be necessarily precedent setting for our neighborhood. These unique characteristics include:
  - a. The use of space will not change – it will remain a single-family home;
  - b. The small size of the lot compared to others on the block; and
  - c. The main living space is on the second floor and thus requires access for that floor as opposed to the ground floor. The deck in this case serves as a patio would for other homes.
- 2) The plans clearly indicate uninterrupted access to the rear yards of the neighbors as afforded to them by the property easement in the rear. Further, we take this concern of the neighbors so seriously that our support for this variance is “contingent on plans and a project that protects and demarcates the easement in the rear of the

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property and includes assurances that a vehicle or other object parked in or placed on the property cannot impede the easement.” We ask for your help to enforce that right-of-way to the extent possible.

- 3) We heard the general concerns of neighbors loud and clear. There are several in the area who do not want a deck built at all. However when it came down to it, there were three tangible concerns we heard and we believe are on their way to being addressed:
  - a. Extinguishment of the easement – this was covered earlier and we do not believe the easement will be blocked by construction of a deck.
  - b. Light and air quality – the applicant submitted a light study that shows there would be limited additional impact to neighbors based on the construction of the deck.
  - c. Privacy – the applicant agreed to construct a screen above the railing on the west to limit the view into a neighbor’s property. Of course more massing will result in more impact to light and air quality so it’s a trade-off.

Overall, we found that the applicant was willing to make changes to their proposal given specific concerns and so with this in mind, we decided to support the variance.

This was not an easy case. I think all parties, including me, learned a great deal about the importance of open communication and process. The ANC stands by its well-tested process for gathering neighborhood input and making decisions on whether to recommend support of a project. We ask that you afford this process the great-weight that it deserves and approve this variance.

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Finally, I'd like to thank Paul Goldstein from the Office of Planning who wrote an excellent staff report and is a real professional asset. Thank you very much for your time and consideration.