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Washington, DC 20015

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November 21, 2015

Bureau of Zoning Adjustment
441 4th Street, NW, Suite 200/210-S
Washington, DC 20001

Re: Case # 18990 - Decision and Order granting three exceptions to Zoning Regulations (§§ 403, 405, 2001.3)

I am the owner of the adjoining property to that of the applicant. I was granted party status and am in opposition. I request reconsideration of the decision for two primary reasons:

1. The Findings of Fact upon which the Conclusions of Law were based are not accurate in some important instances, resulting in faulty Conclusions of Law; and
2. The Board's determination that the approved design has no adverse effects on neighboring property owners is not accurate as demonstrated by the record.

My request for reconsideration is based on the following:

The Preliminary Matters referenced twenty-six letters of support but fails to note that all but one of these are from neighbors on whom there will no impact. The one possible exception is from the abutting neighbor to the south, who currently has no deck or porch and has a solid fence at ground level. There was no consideration of the singularly disparate and negative effect of the proposed deck on my property to the north.

The applicants' statement that they have tried to accommodate my concerns is misleading. Despite several discussions with applicants regarding possible alternatives, none of those possible alternatives are included in the plans for a larger deck which applicants presented for approval.

Applicants' statements to the Board relating to the crepe myrtle and loss of green space are also misleading at best. Applicants stated at the ANC meeting regarding this issue that locating the stairs on the north side would not result in loss of the Crepe Myrtle. Rebuilding the stairs where they were actually preserves more green space, since there is already a concrete pad in place on that side.

The following “Findings of Fact” set forth in the Decision are erroneous:

Item 5 – *“The Applicants therefore propose to replace it”* The applicants are not ‘replacing’ the prior deck. They are constructing a larger and differently configured new deck.

Item 8 - *“During the mid-eighties, the Opposition Party enclosed the porch at her property and created a screened porch.”* In 1986 I added a deck, properly permitted and with no exceptions needed and in 2002, enclosed the deck as a screened porch, again properly permitted, maintaining the deck footprint..

Item 12. *“Placing the stairway to the south of the deck will preserve more green space than if the stairway were placed to the north, because the green space to the north is larger and more usable.”* There is a minimum of 60 square feet of green space on the south side of the applicants’ driveway, and approximately 100 sq. ft. on the north side. Both areas were planted when applicants purchased the house so to claim that one space is “more usable” than the other is disingenuous. Placing the staircase on the north side will result in retention of green space on the south side that will more than compensate for the any loss of green space on the north side. The net effect of placing stairs on the north side will be the retention of more green space, not less.

Item 13. The prior adjoining neighbors had a mirror image deck with stairs next to mine, and the crepe myrtle in place. Applicants acknowledged at the ANC meeting that putting steps on the north side would not necessitate removal of the crepe myrtle.

Item 23 - OP’s finding that my own porch and stairway limit light and air available to my basement fails to recognize two things: 1.) the sun’s trajectory means that my light is far more impacted by applicants’ proposed deck, which will block afternoon sun; 2.) the only window to my basement is beneath my stairs, which let light through. Applicants’ 10 foot deck next to my stairs will block all light, where the placement of stairs there would permit light to pass through.

Item 26 – *“The Board credits OP’s finding that the placement of the stairway to the south, as proposed by the Applicant, will help to reduce movements between the deck and the northern yard (near the 5332 property) and will reduce any noise generated by the use of the proposed deck.”* Use of the stair will be occasional, but the deck – especially as a play space for children – will be used and generate noise for extended periods of time. Having the deck surface less than a foot from the shared property line will cause more noise, not less, with the resultant loss of privacy and enjoyment of my porch.

Item 27 – *“The Board credits OP’s finding that the Opposition Party’s fence will help to lessen views from of the proposed deck on the enclosed porch at the 5332 property.”* OP’s statement is inaccurate. As my fence is a story below my porch and the proposed deck, it will not reduce noise on my porch, nor provide additional privacy for my porch.

As the determination of the Decision was based on erroneous facts, I request reconsideration.

In addition, regarding the Conclusions of Law:

223.2(a) – *“The light and air available to neighboring properties shall not be unduly affected.”* There is clear evidence of negative impacts by the proposed expanded deck to the light and air available to my property as set forth above. Some of the Findings of Fact set forth as the basis for this Conclusion are not accurate, as described above.

223.2(b) – *“First, the fact that the stairway will be located farther away from the 5332 property may, in fact, provide more privacy than if the stairway were closer”* is an unsupported conjecture which is contradicted by the record. *“.”The Opposition Party’s privacy will also be protected by the enclosure of her own porch and by the wooden privacy fence on her property”.* Privacy on the porch/deck level is not ‘protected’ by the porch’s screens, nor by a privacy fence which is a story below. Again an assertion that is not supported by the record.

I seek the following relief:

1. Put the stairs on the north side along our shared property line OR
2. Move the north edge of the deck to the south to create a four foot space between applicants’ proposed deck’s living space and my stairs.

I have been advised by Ms. Tracey Rose, Senior Zoning Specialist, that the deadline for submitting this request will be close of business on Monday, November 23, 2015. (See appendix A) .

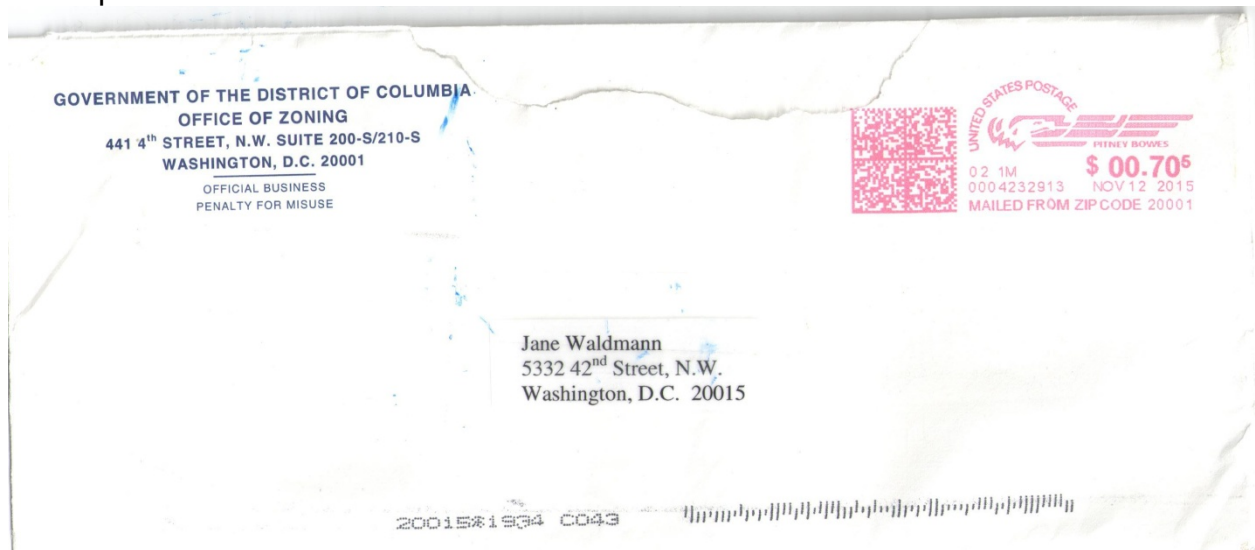
I look forward to hearing what are the next steps.

Jane Waldmann

BZA 18990
November 23, 2015

APPENDIX A

In a statement accompanying the Decision and Order, Ms. Bardin, Director, Office of Zoning, certifies and attests that “on November 9th, 2015 ... a copy of the order ... was mailed first class ... or delivered by electronic mail to each party ... who appeared and participated ... and who is listed below.” I received the Decision and Order on Saturday, November 14th. The envelope was postmarked November 12, 2015 (copy of envelope below:



I did not receive email notice probably because my email address is incorrect on Ms. Bardin's letter. The correct address is jciw-centernet@erols.com



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



FORM 150 – MOTION FORM

THIS FORM IS FOR PARTIES ONLY. IF YOU ARE NOT A PARTY PLEASE FILE A
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.

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.

CASE NO.:	18990					
Motion of:	<input type="checkbox"/> Applicant	<input type="checkbox"/> Petitioner	<input type="checkbox"/> Appellant	<input checked="" type="checkbox"/> Party	<input type="checkbox"/> Intervenor	<input type="checkbox"/> Other _____

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

reconsideration of decision and order

Points and Authorities:

Please state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form.

attached

CERTIFICATE OF SERVICE

I hereby certify that on this 20 day of November, 2015

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via: Mailed letter Hand delivery E-Mail Other _____

Signature: *Jane Waldmann*

Print Name: JANE WALDMANN

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