

Wayne Lin & Christina Balch
6812 Laurel St NW
Washington, DC 20012
415-203-7306
wayne.lin@gmail.com

May 2, 2015

Subject: BZA for variance – Burden of Proof

Dear Board of Zoning Adjustment,

We are applying for an area variance for the dwelling at 6812 Laurel St. NW. Due to the irregularly shaped lot the dwelling is built on, we are unable to meet rear setback regulations and our application for building permits with the DCRA has been escalated to the BZA to resolve the rear setback zoning issue.

To summarize how our case meets the burden of proof requirements:

1. Physical characteristics of the property make it difficult for the owner to build in compliance with zoning regulations
 - Our dwelling is located on an irregularly shaped lot and we would like to build a 42 sq ft (6' x 7') addition to the rear to the rear of the building.
 - In our discussions with DCRA Zoning we've learned the policy for rear setback for irregularly shaped lots is 25' (or 27').
 - The placement of our home on the lot and the shape of the lot prevents us from meeting the rear setback requirement and prevents our renovation project from moving forward. In fact, a large part of the existing structure is already in violation of the rear yard setback.
2. Granting the application will not be of substantial detriment to the public good
 - We have reviewed our renovation and addition proposal with ANC4B and HPRB and have their support for the project.
3. Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map
 - Our application is requesting a small 42 sq ft addition to the footprint of our dwelling, a 1% increase in lot occupancy. This addition runs along a parallel axis to existing 18.6' encroachment on the rear setback and does not increase the encroachment on the setback.
 - We intend to continue using the property as an owner occupied single family dwelling with no change to the intended use.

Details of how we meet the burden of proof for each of the three requirements is provided on following pages.

1. Physical characteristics of the property make it difficult for the owner to build in compliance with zoning regulations

We would like to build a 42 sq ft (6' x 7') addition to the dwelling to add an additional half bathroom to the first floor and a full bathroom in the basement. Our dwelling at 6812 Laurel St NW is located on an irregularly shaped lot that has caused complications figuring out the proper way to determine the rear setback minimum. In conversations our architect, Matthew Correll at DBMC LLP, and our permit expeditor, Michael Banks, had with Matt LeGrant, Jeanette Anderson, and Mamadow Ndaw at DCRA zoning over a span of 6 months we've concluded that our property does not meet the minimum setback requirement and needs to come to BZA for relief. (See Appendix A & B)

Our architect and permit expeditor have commented that the policy for setting rear setbacks for irregularly shaped lots is not well documented in DC zoning regulations. Through discussion with Matt LeGrant and Jeanette Anderson we think we've determined that the policy for the rear setback for an irregularly shaped lot is: "The greater of 25' (or 27') and the minimum rear yard setback for an irregularly shaped lot calculation."

Two components of this statement are unclear to us:

1. Is the minimum rear setback 25' or 27'?
2. If there's an alternate rear yard setback calculation, why does the 25' (or 27') number still apply?

1. There is inconsistency in the minimum rear yard setback. Matt LeGrant has said this is 25' while Mamadow Ndaw says this is 27' in his DCRA zoning review. (See Appendix A & C)

2. For the minimum rear yard setback calculation Matt LeGrant on October 9, 2014 stated: (Appendix A)

To determine the minimum rear yard setback for an irregularly shaped lot (eg: the property lines forming the back of the lot are not at right angles):

1. Draw a line across the width of the lot at the point that the rear of building is closest to the rear lot line.
2. Compute the resulting polygon area, Area 2, in square feet, between the line #1 and the side and rear lot lines.
3. Divide the area in #2 by the length of the line described in #1.

This calculation results in a minimum rear yard setback of 18'-7 5/8". At 18'-7 5/8" our plans for the addition meet the rear yard setback requirements. Based on this calculation, we were confused as to why we needed to meet the 25' (or 27') rear yard setback when using this alternate calculation we have a shorter rear yard setback.

In emails from Matt LeGrant on November 23, 2014 and Jeanette Anderson on April 8, 2015 clarified that:

“Since the existing 18 feet, 7 5/8 inch rear yard is less than the 25 foot rear yard requirement in the subject R-1-B zone, any extension of the house would required relief from the BZA.” Matt LeGrant (Appendix A)

“It may not increase it [*minimum rear yard setback*], but providing the minimum and not decrease it.” Jeanette Anderson (Appendix B)

Based on these comments we’ve concluded that we need to submit an area variance application with the BZA to help determine the appropriate rear yard setback. If our plans do encroach on the rear yard setback then we need BZA to grant relief on this the rear yard setback requirement.

If the rear setback is 25’ (or 27’) this prevents us from building in compliance with zoning regulations. The home was built in 1917, likely before these zoning regulations for irregularly shaped lots was set. A significant portion of the existing home is currently already in violation of the 25’ (or 27’) setback requirement. The 42 sq ft addition we are proposing will also not comply with zoning regulation.

2. Granting the application will not be of substantial detriment to the public good

We believe that this application does is not of substantial detriment to the public good.

Prior to applying for DCRA building permits we reviewed our plans with ANC4B and HPRB. The ANC reviewed our proposal and voted to adopt Resolution #14-1105

“Recommendation to Historic Preservation Review Board Regarding Proposed Renovation at 6812 Laurel St N.W.” on November 24, 2014 with 6 votes yes, 0 votes no, and 1 abstention. (See Appendix D)

I have reached out to Judi Jones, our ANC4B representative, to see if our proposed renovation and addition needs another round of review and approval by the ANC board given the rear setback issue that we now face. Since they have already reviewed and discussed the entire project plan, including the 42 sq ft addition, it is unclear if they need to re-review or if their prior decision stands.

Our architect, Matthew Correll, reached out to Anne Brockett at HRPB for a preliminary review of our project in advance of submitting formally for DCRA permits. On October 27, 2014 she provided the following comment:

"The designs look good, but must go through the review process. Please file for HPRB with 2 sets of 11 X 17 plans and photos and get in touch with the ANC to present to them. If there are no community concerns, it is possible that we can sign off at the staff level." (See Appendix E)

Finally, I intend to approach as many neighbors as possible in our 200 ft radius to gain letters of support for our addition. Since we are friends with many of our neighbors, we

have discussed the project with them already and they are aware of the zoning issue. Many have provided verbal support for our addition already and I will get this documented in written format for the BZA.

3. Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map

From our Form 135 – Zoning Self-Certification provided by David Baker, architect team at DBMC Design LLP, our application requests a small 42 sq ft addition to the footprint of our dwelling that we believe this meets the general intent of zoning regulations and map. We intend to continue using the home as an owner occupied single family dwelling. This will result in a 1% increase in lot occupancy, from 18% to 19%, staying underneath the 40% maximum allowed occupancy. This addition runs along a parallel axis to existing 18.6' encroachment on the rear setback and does not increase the encroachment on the setback.

This application will enable us to use our irregularly shaped lot to make our home more livable with additional bathrooms and set us up to hopefully live in the home for many years into the future. Thank you for your time in reviewing our case.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wayne', with a stylized flourish extending to the right.

Wayne Lin

Appendix A: DCRA Zoning email discussions with Matt LeGrant and Mamadou Ndaw

From: "Matthew J. Corell" <mcorell@dbmc.us>

Date: March 23, 2015 7:44:23 AM EDT

To: Mamadou.Ndaw@dc.gov, "Kathleen A. (DCRA) Beeton" <kathleen.beeton@dc.gov>

Cc: Wayne Lin <wayne.lin@gmail.com>, Michael Banks <mikebanksdesign@yahoo.com>

Subject: Building permit: B1504772 6812 Laurel Street, NW - rear yard setback

Good morning Mamadou Ndaw,

I'm writing in response to your comments for the building application B1504772. We coordinated last year with Mr. LeGrant and Ms. Beeton about the rear yard setback requirement, please see Mr. LeGrant's email below. We had a follow up question, that was never answered, as to why the calculated rear yard of 18'-7 5/8" which replaces the 25' setback would require any addition to go before the BZA. Perhaps you can give us clarification as to why we would need to go before the Board.

Thanks,

Matthew J. Corell

Architecture + Design

Washington, DC

[540.239.6468](tel:540.239.6468)

www.dbmc.us

From: "LeGrant, Matt (DCRA)" <matthew.legrant@dc.gov>

Date: November 23, 2014 3:35:43 PM EST

To: Matthew J.Corell <mcorell@dbmc.us>

Cc: "Beeton, Kathleen A. (DCRA)" <kathleen.beeton@dc.gov>

Subject: RE: 6812 Laurel Street, NW - rear yard setback

Matthew Corell-

My apologies for the delay in responding. I have reviewed your revised drawing and find it to be an accurate depiction of the required rear yard. Since the existing 18 feet, 7 5/8 inch rear yard is less than the 25 foot rear yard requirement in the subject R-1-B zone, any extension of the house would required relief from the BZA.

Again my apologies for the delay in getting this response back to you and do let me know if you have any further questions.

Best Regards,

Matthew Le Grant

Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: [202 442-4652](tel:2024424652)
Email: matt.legrant@dc.gov
Web: <http://dcra.dc.gov/service/zoning-dcra>

From: Matthew J. Corell [mailto:mcorell@dbmc.us]
Sent: Friday, November 07, 2014 2:29 PM
To: LeGrant, Matt (DCRA); LeGrant, Matt (DCRA)
Cc: Beeton, Kathleen A. (DCRA)
Subject: Fwd: 6812 Laurel Street, NW - rear yard setback

Good afternoon Mr. Le Grant,

I'm hoping you've had a chance to review the rear yard setback and provide us with a ruling. Please let us know as soon as you can.

Thanks,

Matthew J. Corell

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Washington, DC
[540.239.6468](tel:5402396468)
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From: Matthew J. Corell <mcorell@dbmc.us>
Date: October 31, 2014 9:56:40 AM EDT
To: "Matt (DCRA) LeGrant" <matt.legrant@dc.gov>
Cc: David Baker <dbaker@dbmc.us>
Subject: Fwd: 6812 Laurel Street, NW - rear yard setback

Good morning Mr. Le Grant,

It has been 3 weeks since we reached out to you to get a ruling of the rear yard setback for 6812 Laurel Street, NW, please review and let us know if we have placed the rear yard

setback correctly. Let us know if you need additional information or time to review the setback.

Thanks,

Matthew J. Corell

Architecture + Design
Washington, DC
[540.239.6468](tel:540.239.6468)
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From: Matthew J. Corell <mcorell@dbmc.us>
Date: October 22, 2014 4:44:06 PM EDT
To: "Matt (DCRA) LeGrant" <matthew.legrant@dc.gov>
Cc: David Baker <dbaker@dbmc.us>
Subject: Fwd: 6812 Laurel Street, NW - rear yard setback

Good afternoon Mr. Le Grant,

I wanted to check in as to the status of the proposed rear yard set back. Do you feel we have accurately placed it?

Please let me know.

Thanks,

Matthew J. Corell

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www.dbmc.us

From: "Matthew J. Corell" <mcorell@dbmc.us>
Date: October 20, 2014 12:51:38 PM EDT
To: "LeGrant, Matt (DCRA)" <matthew.legrant@dc.gov>
Cc: David Baker <dbaker@dbmc.us>
Subject: Re: 6812 Laurel Street, NW - rear yard setback

Hello Mr. Le Grant,

Please see the attached revised site plan, I believe this is what you describe below in your email as the proper way to determine the rear yard setback. Let me know if I'm in error.

Thanks,

Matthew J. Corell

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On Oct 9, 2014, at 1:59 PM, LeGrant, Matt (DCRA) wrote:

Matthew Corell-

Thanks for this background and drawing; I have one question to help me with my analysis: what is the length of the dashed line that is placed along the rear of the house? With that figure I can apply the following formula to determine the average rear yard for an irregularly shaped lot:

To determine the minimum rear yard setback for an irregularly shaped lot (eg: the property lines forming the back of the lot are not at right angles):

- 1. Draw a line across the width of the lot at the point that the rear of building is closest to the rear lot line.*
- 2. Compute the resulting polygon area, Area 2, in square feet, between the line #1 and the side and rear lot lines.*
- 3. Divide the area in #2 by the length of the line described in #1.*

Please let me know the results of this calculation.

Best Regards,

Matthew Le Grant
Zoning Administrator
Dept of Consumer and Regulatory Affairs
Government of the District of Columbia
1100 4th St SW - Room 3100
Washington, DC 20024
Phone: [202 442-4652](tel:2024424652)

Email: matt.legrant@dc.gov

Web: <http://dcra.dc.gov/service/zoning-dcra>

From: Matthew J. Corell [mailto:mcorell@dbmc.us]
Sent: Thursday, October 09, 2014 9:43 AM
To: LeGrant, Matt (DCRA)
Cc: David Baker
Subject: 6812 Laurel Street, NW - rear yard setback

Good morning Mr. Le Grant,

We are working on an irregularly shaped property located in Takoma Park. We need your assistance to determine the rear yard setback location. As we understand it, the rear yard is located behind and parallel to the street with the front door with the final location based on area determined from the minimum setback from rear most property line.

Please see the attached existing site plan for the property located at 6812 Laurel Street, NW. As you can see from the drawing, the site is an irregular shaped lot which makes setting the rear yard difficult. The property is zoned R-1-B and has a required 25' rear yard minimum. On the site plan we located a 25' setback from the western most property line, we calculated the area that this created to be 1,516 sf. We then created a line, parallel to the Laurel Street property line, and this area is 1,516 sf.

Please confirm that we have accurately set the rear yard. If we are in error, please let us know how to properly place the rear yard.

Thanks,

Matthew J. Corell

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Appendix B: DCRA Zoning email discussions with Jeanette Anderson

"Anderson, JeannetteB (DCRA)" <jeannetteb.anderson@dc.gov> wrote:

It may not increase it, but providing the minimum and not decrease it.

From: Mike Banks [mailto:mikebanksdesign@yahoo.com]
Sent: Wednesday, April 08, 2015 11:12 AM
To: Anderson, JeannetteB (DCRA)
Subject: RE: Fw:Re: 6812 Laurel St. zoning progress -- site plan

So the minimum is always the prescriptive minimum and the calculation can only INCREASE the minimum setback and not decrease it?

"Anderson, JeannetteB (DCRA)" <jeannetteb.anderson@dc.gov> wrote:

It is just the standard form on how to calculate setbacks for an irregular shaped lot, but the Owner must provide the minimum standard just like everyone else.

Thanks,
Jeannette

From: Mike Banks [mailto:mikebanksdesign@yahoo.com]
Sent: Wednesday, April 08, 2015 8:21 AM
To: Anderson, JeannetteB (DCRA)
Subject: RE: Fw:Re: 6812 Laurel St. zoning progress -- site plan

So - if the calculations mean nothing then why did Matt offer it as what seems to be a way of establishing an alternate minimum setback on a polygonal lot shape? M

"Anderson, JeannetteB (DCRA)" <jeannetteb.anderson@dc.gov> wrote:

Mike,

Thank you for this email. I agree with what Matt corresponded to the owner with, in

reference to how to calculate a polygon shaped lot; however, the setback provided must still be the minimum that the zone requires.

Thanks,
Jeannette

From: Mike Banks [mailto:mikebanksdesign@yahoo.com]
Sent: Monday, April 06, 2015 4:29 PM
To: Anderson, JeannetteB (DCRA)
Subject: Fw:Re: 6812 Laurel St. zoning progress -- site plan

Hi Jeannette

My client sent me some more background on his zoning issue - Mamadou rejected on rear setback but apparently Legrant corresponded with the archy earlier (see attachment) suggesting an applicable formula that would allow for the less than standard setback. Can you have a look? This is what we briefly chatted about last Thursday.

Thanks,

MIKE BANKS
[703.930.3604](tel:703.930.3604)

Subject: Re: 6812 Laurel St. zoning progress -- site plan
From: Wayne Lin <wayne.lin@gmail.com>
To: Mike Banks <mikebanksdesign@yahoo.com>
CC:

Mike,

I've attached the PDF memo outlining the rear setback calculation Matt LeGrant provided. I've also included all drawings and email exchanges to support the case we're making. Take a look and let me know if you want me to word things any differently or if anything else would help support our case.

Thanks,
--Wayne

Appendix C: DCRA permit review comments

ApplicationID	Date Filed	Full Address		Agent Name		Phone Number
 B1504772	2/25/2015	6812 LAUREL ST NW		MICHAEL BANKS		703-930-3604
Discipline	Review Status	Status Date	Review Comment	Reviewer Name	Reviewer Email	
Zoning Review	Zoning Review - HFC	03/11/2015	1. the proposed addition encroaches into the required 27-foot rear yard setback. 2. please update the dc surveyor's plat. when submitted it shall not be more than 6 months old. 3. please verify the accuracy of the scale as labeled on the elevation drawings. 4. additional comments may follow.	Mamadou Ndaw	Mamadou.Ndaw@dc.gov	
Zoning Review	Zoning Review - HFC	03/11/2015	1. the proposed addition encroaches into the required 27-foot rear yard setback. 2. please update the dc surveyor's plat. when submitted it shall not be more than 6 months old. 3. additional comments may follow.	Mamadou Ndaw	Mamadou.Ndaw@dc.gov	

Appendix D: ANC4B Resolution #14-1105 Approval



Advisory Neighborhood Commission 4B

6856 Eastern Avenue, NW - Suite 314

Washington, DC 20012

202-291-6282 (Office)

Ron Austin, ANC 4B06, Chairperson; Douglass Sloan, ANC 4B09, Vice Chairperson;

Yvonne Jefferson, ANC 4B08, Secretary; Frederick Grant, ANC 4B03, Treasurer;

Sara Green, ANC 4B01; Faith Wheeler, ANC 4B02; Brenda Parks, ANC 4B04; Brenda Speaks, ANC 4B05;

Judi Jones, ANC 4B07

November 25, 2014

Hon. Gretchen Pfahler, AIA
Chairperson
Ms. Anne O. Brockett
Architectural Historian
Historic Preservation Review Board
1100 4th Street, SW, Suite E650
Washington, DC 20024

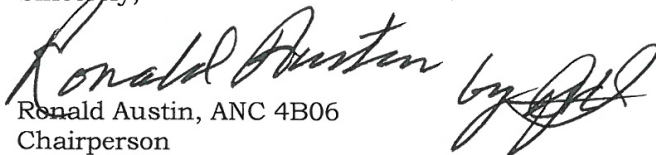
RE: 6812 Laurel Street N.W.

Dear Chairperson Pfahler and Ms. Brockett:

At its regularly scheduled meeting on November 24, 2014 (notice of which was properly given, and at which a quorum of seven of nine members was present) ANC4B voted (6 yes, 0 no, 1 abstain) to adopt the attached resolution supporting the proposed renovation and addition to an existing residence at 6812 Laurel Street N.W.

The Commission submits this resolution under the provisions of DC Code 1-309.10(a) through 1-309.10(h)(1), which require, among other things, that Advisory Neighborhood Commission recommendations be given "great weight" by DC government agencies, that DC government agencies "articulate with particularity and precision the reasons why the Commission does or does not offer persuasive advice under the circumstances. In doing so, the government entity must articulate specific findings and conclusions with respect to each issue and concern raised by the Commission."

Sincerely,


Ronald Austin, ANC 4B06
Chairperson

cc: Commissioners, ANC 4B
Hon. Muriel Bowser, Councilmember, Ward 4
Mr. Gottlieb Simon, Executive Director, Office of Advisory Neighborhood Commissions
Mr. Wayne Lin



Advisory Neighborhood Commission 4B
Government of the District of Columbia
6856 Eastern Avenue, NW - Suite 314
Washington, DC 20012

RESOLUTION #14-1105
Recommendation to Historic Preservation Review
Board Regarding Proposed Renovation
at 6812 Laurel Street N.W.
Adopted November 24, 2014

- Mr. Wayne Lin proposes to renovate his residence at 6812 Laurel Street N.W., which is located in the Takoma Park Historic District. He has submitted detailed plans to the Commission and to the Historic Preservation Office for review.
- The Commission has reviewed the plans and drawings for the proposed renovation and finds that they are consistent with historic preservation standards for the Takoma Park Historic District.
- The Commission understands that the existing roof structure will not be changed.

RESOLVED:

That Advisory Neighborhood Commission 4B supports the design of the proposed renovation and recommends that the Historic Preservation Review Board approve it.

FURTHER RESOLVED:

That Commissioner Judi Jones, ANC 4B07, is hereby authorized to serve as the Commission's representative in all matters relating to this resolution.

FURTHER RESOLVED:

That, in the event the designated representative Commissioner cannot carry out her or his representative duties for any reason, the Commission authorizes the Chairperson to designate another Commissioner to represent the Commission in all matter relating to this resolution.

FUTHER RESOLVED:

Consistent with DC Code §1-309, only actions of the full Commission voting in a properly noticed public meeting have standing and carry great weight. The actions, positions and opinions of individual commissioners, insofar as they may be contradictory to or otherwise inconsistent with the expressed position of the full Commission in a properly adopted resolution or letter, have no standing and cannot be considered as in any way associated with the Commission.

ADOPTED by voice vote at a regular public meeting (notice of which was properly given, and at which a quorum of seven of nine members was present) on November 24, 2014, by a vote of 6 yes, 0 no, 1 abstain.

Appendix E: HPRB Anne Brockett preliminary review of project

From: "Brockett, Anne (OP)" <anne.brockett@dc.gov>
Date: November 17, 2014 6:28:59 PM EST
To: "Matthew J. Corell" <mcorell@dbmc.us>
Subject: RE: 6812 Laurel Street, NW - renovation and addition

Hi Matthew –

The reason I suggested filing for HPRB is in case there are community concerns and someone wants to present their opposition to the HPRB. If you have filed this month, it shouldn't hold you up going to HPRB in December. If you don't file and there is community opposition, it would not be heard by HPRB until the end of January. In any case, it's really a safeguard – the addition is so small I doubt there would be opposition. Why don't you let me know how it goes at ANC on Monday and determine from there if you should file?

Thanks,
Anne

Anne O. Brockett
Architectural Historian

Historic Preservation Office
1100 4th Street SW, Suite 650E
Washington, DC 20024
[202-442-8842](tel:202-442-8842) v
[202-442-7638](tel:202-442-7638) f
www.planning.dc.gov/hpo

From: Matthew J. Corell [mailto:mcorell@dbmc.us]
Sent: Monday, November 17, 2014 3:56 PM
To: Brockett, Anne (OP)
Subject: Re: 6812 Laurel Street, NW - renovation and addition

Good afternoon Ms. Brockett,

We have touched base with the ANC and are set to present to them next Monday. We have not filed yet for HPRB, is there an application that I need to fill out? On previous historic projects, I've consulted with HPO staff, received approval via email, received approval from ANC, and then submitted permit drawings. During permit review the HPO staff official signs off on the design. Is this what you mean by signing off at the staff level?

Thanks,

Matthew J. Corell

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Washington, DC
[540.239.6468](tel:540.239.6468)
www.dbmc.us

On Oct 27, 2014, at 4:45 PM, Brockett, Anne (OP) wrote:

Hi Matthew – The designs look good, but must go through the review process. Please file for HPRB with 2 sets of 11 X 17 plans and photos and get in touch with the ANC to present to them. If there are no community concerns, it is possible that we can sign off at the staff level.

Thanks
Anne

Anne O. Brockett,
Architectural Historian

Historic Preservation Office
1100 4th Street SW, Suite 650E
Washington, DC 20024
[202-442-8842](tel:202-442-8842) v
[202-442-7638](tel:202-442-7638) f
www.planning.dc.gov/hpo

From: Matthew J. Corell [<mailto:mcorell@dbmc.us>]
Sent: Monday, October 27, 2014 11:26 AM
To: Brockett, Anne (OP)
Cc: David Baker
Subject: 6812 Laurel Street, NW - renovation and addition

Good morning Ms. Brockett,

I have a client at 6812 Laurel Street, NW located in the Takoma Park Historic District who wants to add an addition to the rear of their house, please see the attached drawings for your review and comment. The property is an odd shaped corner lot and the addition would be seen from the side view along Aspen St. The renovation would include enclosing the existing screened porch at the rear to become part of the kitchen. The addition would extend north towards Aspen St. to provide a powder room on the first floor. The area under the porch and future powder room would be enclosed as well to provide additional space for a bedroom and full bathroom.

Before we get too far in the design process, we wanted to touch base with you and get your feedback on the proposed design. Do you feel we can proceed with the design as shown to obtain approvals through staff or do you feel we need to present before the HPRB?

Thanks,
Matthew J. Corell

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