

Burden of Proof

Variances and Special Exception Application

433 New Jersey Ave SE

To: The Board of Zoning Adjustment
Government of the District of Columbia
Suite 210 South
441 4th St., NW
Washington, DC 20001

Date: April 25, 2018

Subject: Construction of new stairs from 2nd floor of existing single family dwelling to a new roof deck .

1. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Chelsea Zitnay, owner of 433 New Jersey Avenue, SE, Lot 0048 in Square 0693 (the "property") in support of my application for:

- a. Variance from C, 202.2 for the enlargement of a nonconforming property that does not comply with X, 1000.1.
- b. Variance from E, 504.1 for the maximum percentage of lot occupancy pursuant to X, 1000.1.
- c. Special exception pursuant to C-1502.1 for the setback requirements as by C-1502.1 (X-900.2)

2. BACKGROUND

A. Description of Existing Property

The property at 433 New Jersey Avenue, SE, Lot 0048 in Square 0893 has an area of 1,725 square feet and a width of 16.7 feet and a length of 104 feet. There are adjacent houses on the north and south property lines and public alley at rear.

The Property is presently improved with a 2- story and a basement row dwelling. The current use of the row dwelling is a single family house.

The existing lot coverage is 1303 foot square (75.5%) and the rear setback is 20 feet 0 inches.

The property is located in the Capitol Hill Historic in RF-3 zone.

The existing structure was built in 1914.

B. Description of Proposed Project

The Applicants propose to construct a new roof deck above the middle of the row house. The new roof deck will have 24" square porcelain pavers supported by synthetic pedestals bearing on the existing roof structure. The new roof deck will be 12 feet wide by 18 feet long. It will be set back from the front of the building by 16 feet 6 inches and 4 feet 8 1/2 inches from the north property line. The new roof deck will extend to the south property line. There will be a new 3 foot high parapet party wall on the south property line. The other edges of the new roof deck will have 3 foot high painted metal railings. The access to the roof deck is proposed to be from a new exterior painted metal stair built over the existing open court. It will go from an existing 2nd floor exterior door up to the new roof deck. The new stairs will be anchored to the existing exterior masonry bearing wall at the north side of the open courtyard. At the south side of the property it will be supported by two painted metal columns on new concrete pier footings. It will not touch the neighbor's house. The new roof deck and stairs will be located near the center of the property and will not be visible from either the street or the public alley. The additional area for the new stair over the existing court yard will increase the lot coverage from 75.5% to 78.9%.

C. Statement of Compliance for Special Exception

1- The light and air available for the neighboring properties shall not be unduly affected.

The existing property is an interior unit of a group of row dwellings facing New Jersey Avenue. The proposed new stairs will be located over the open court yard on the south side of the property. The row house on the south side is built on the property line and does not have any windows facing the open court. As a result there will be no impact to the light and air available for the property on the south side of the proposed exterior stairs.

As described earlier, the new roof deck will be setback from the property on the north side by 4 feet 8 1/2 inches. As a result there will be no impact to the light and air available for that property.

At the south side of the property the roof deck is proposed to extend to the property line. It will be separated from the neighboring property by new parapet wall that will be 3ft higher than the new roof deck. Extending the roof deck to property line allows for access from a new exterior stair. Not extending the roof deck to property line would require a new covered roof structure to be built over the existing dwelling. This would increase the height of the building and would also start to be visible from public space. Extending the roof deck to the property line and using open exterior stairs results in the least visible design solution, and will not result in any impacts to the use, light and air available to the neighboring property.

Both of the adjacent properties have the same building heights as 433 New Jersey Avenue. Neither of these properties have any existing roof structures. As a result there will be no impact to the light and air available for either property as a result of the proposed roof deck.

2- The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.

The two adjacent properties are built on property lines and share two party walls with the subject property. Neither of the properties have any windows through which the proposed work can be seen. Also neither property has any roof structures. Therefore, existing conditions of offering privacy of use and enjoyment will continue to exist for both adjacent properties.

3- The proposed project, together with the original building, as viewed from the street, alley or other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.

As stated in the Description of the Proposed Project, the proposed work is for exterior stairs and a roof deck. They will not be visible from the street. Because the rear of the property is bordered by a garage and privacy fences on all sides, the project will be invisible from the alley. Also there is medium sized existing tree on the opposite side of the alley, that will help to obscure the visibility of the proposed work. The architectural character and the historical value of this structure will remain completely intact and unchanged by the requested relief.

D. Statement of Compliance for Area Variance

1- The physical characteristics of the property make it difficult for the owner to use the property in compliance with the Zoning Regulations, and create financial hardship for the owner in using the property.

Practical Difficulty

Both the subject property and the existing structure were in existence prior 1958. The property is a two story row house with a basement. At the basement level there is a garage that is accessed from the public alley. There is an open courtyard on the south side of the property. The neighboring property on the south side is built on the property line and has no windows that face the open courtyard. This courtyard is 4'-3" wide and has brick pavers. The proposed stairs to the roof deck will be located at the end of the open courtyard that is furthest from the public alley. The proposed roof deck will be over the center portion of the house. Placing both the new stairs and the new roof deck in these locations means that they will not be visible from the street or the public alley.

If the roof deck were placed either closer to the street or closer to the alley it would start to be visible from public space. If the stairs were built at the rear of the property. They also

would be visible. If the stairs were to be built above the existing house, they would require a roof structure, which would increase the height of the building and would also start to be visible from public space.

Constructing the new stairs over the existing court yard does increase the lot coverage from 75.5% to 78.9%. However the courtyard is very narrow, and as stated earlier, the adjacent property does not have any windows or exterior space that looks into the area where the new stairs and roof deck are proposed to be built. Because of the narrowness and depth of the existing courtyard, the increase in lot coverage will not have significant negative affects to the adjacent properties or public spaces.

2) No substantial detriment to public good.

As stated in the burden of proof statement for complying with the requested special exception:

- 1- The light and air available for the neighboring properties shall not be unduly affected.
- 2- The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.
- 3- The proposed project, together with the original building, as viewed from the street, alley or other public way, shall not visually intrude upon the character, scale and pattern of houses along the subject street frontage.

3) No inconsistency with the general intent and purpose of the Zoning Regulations and Map.

- Roof decks are permitted in the RF-3 zoning district. The requested use will be in harmony with other existing houses in the same residential district and same neighborhood.
- The existing height and number of stories of the structure will remain unchanged and consistent with neighboring row house dwellings.

D. Statement of Compliance for Relief to Penthouse Requirements

Per section C 1502.1 the roof deck, guard rails, and stairs are required to be setback from the rear walls, side walls, front walls, and party wall lines by a distance equal to the height of these elements from the top of the roof which they are upon.

Per section C 1504.1

Relief to the requirements of Subtitle C §§ 1500.6 – 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:

- (a) The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;

- (b) The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall;
- (c) The relief requested would result in a roof structure that is visually less intrusive;
- (d) Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;
- (e) Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and
- (f) The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

We believe that our project qualifies for relief and qualifies for each of the above requirements as follows:

- a) For the new stairs to the roof to be setback from the party wall property line they would need to be built above the existing house. This would require a roof structure, which would increase the height of the building and would also start to be visible from public space
- b) Locating the stairs and roof deck at the proposed locations allows these elements to be minimal in height, and makes them not visible from the public street, the public alley, or neighboring properties.
- c) As said previously, adhering to the setback requirements would result in larger structure, which would be more visible than our proposed design.
- d) We do not believe this section is applicable to our design.
- e) No mechanical equipment is part of this proposed work.
- f) We believe the intent and purpose of this section is met by our proposed design because it will not be visible from public areas or neighboring dwellings as previously stated.