BEFORE THE
BOARD OF ZONING ADJUSTMENT
GOVERNMENT OF THE DISTRICT OF COLUMBIA

APPLICATION NUMBER 16780
(Application of Lenard Woods for multiple variances at premises: 1360 East Capitol St., NE (Square 1035, Lot 82))

RESPONSE OF CHRISTOPHER AND CHERYL CORSON

We would like to file a brief response in this matter. We did not receive anything from Mr. Woods after the public hearing, so this response is limited to our review of Mr. Woods's plans and to a few issues that were raised at the hearing. The relief we are seeking is the removal of Mr. Woods's rear decks, to be replaced with steps up to his rear door.

1. We understand that the Board has received the report from ANC 6B, which shows that the ANC voted 7-0 to oppose Mr. Woods's application. At least two ANC Commissioners personally viewed the site: Ann Black (chairperson of the zoning subcommittee) and Charles White (single-member representative for our block). Commissioner White also came into our house to view the situation from our rear bedroom, second-story rear porch, and from our back yard. We ask that the ANC report be given the "great weight" prescribed by statute and regulation. D.C Code Ann. § 1-261 (1981); 11 DCMR § 3115.2.

2. At the hearing, there was some discussion about the relevance of an ANC report in a situation where, as here, the burden of proof had changed. The report of ANC 6B, however, deals almost wholly with the impact of Mr. Woods's rear decks on adjoining property owners, principally us. Therefore, it addresses exactly the questions that are relevant under 11 DCMR §§ 223.2(a) ("light and air available to neighboring properties shall not be unduly affected") and 223.2(b) ("privacy of use and enjoyment of neighboring properties shall not be unduly compromised"). The ANC 6B report specifically finds that "the construction seriously infringes on the air, light and privacy of the adjoining neighbor".

3. We would like to state, however, that we are not seeking all of the relief that the ANC report recommends: *i.e.* "that the deck be removed and all damage to adjoining property be repaired immediately." While removal of his decks is

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unfortunately necessary in order to address the impacts on our home, we are not asking for restitution.

4. In our testimony at the hearing, we stated that Mr. Woods had replaced his original wooden porches (the mirror image of ours) with a masonry extension. He testified that his house already had an extension, a statement that prompted several Board members to consult his plans. When I[1] bought our house nearly three years ago, there was little in the way of any porch or extension on the back of Mr. Woods's house. It was vacant (as now), and a substantial portion of what had been attached to the back brick wall had fallen in. The second-story porch roof survived, but the main aspect of the back of his house was the original brick wall that was the counterpart of our back wall, with debris in his back yard. It appears from Mr. Woods's plans that his rear porches had been enclosed and perhaps weatherized, but Mr. Woods had to remove the little that remained when he enclosed that portion of the original footprint with fresh masonry. Thus, our testimony should probably refer to "enclosed porches" instead of "porches". We do not believe, however, that this difference changes the problem, which is that Mr. Woods's new construction is wholly in excess of the original footprint of his house and now extends eight and one-half feet past our porches. It is the new construction rearward of the original footprint that adversely impacts our home, not the masonry construction that has replaced his old porches (enclosed or not).[2]

5. In our testimony at the hearing, we also stated that Mr. Woods's porches had been constructed about seven months ago. Parts of them have actually been up nearly one year. The approval date on Mr. Woods's rear deck plan is November 7, 2000. He originally laid decking that extended rearward about 18 feet, resulting in a stop work order in mid-December, 2000. He then reduced the deck to its current rearward extension of eight feet, seven inches. Thus, construction on the current deck started nearly one year ago. Despite the long duration of this problem, Mr. Woods's application for a variance was only filed in August, 2001.

6. At the hearing, Mr. Woods testified that in shortening his deck he was complying with a request of ours. That is not correct. The November, 2000 architect's plans call for an eight-foot deck. It was the Zoning Office that required him to cut back his 18-foot construction, although his current, eight and one-half foot deck still does not comply with the plans. We did initiate a discussion with Mr. Woods at the time about the fact that his construction obviously violated lot coverage rules and that he should investigate them before incurring so much cost. At no time did we ever tell Mr. Woods that we would agree to any construction in violation of coverage rules. For his part, Mr. Woods never commenced a discussion or communicated with us in any way about his deck plans or their possible impacts on us.

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[1] Our house was bought by Christopher Corson, who was unmarried at the time.

[2] As noted in our previous submissions, Mr. Woods left exposed cinderblock on the entire side of his masonry extension, which faces our property. This appears to be a separate issue.

7. Turning to those impacts, we will not repeat our testimony, which is seconded by the ANC report. We would, however, like to respond to two statements made by Mr. Woods at the hearing.

    a. With respect to privacy, Mr. Woods offered to put up a side barrier, so that no one could see into our back bedroom from his second-story porch. Such a barrier would cut off much of the light and air circulation that comes into our bedroom and be intolerable. It would further block and ruin our rearward view. It would increase the bulk of his porches that now loom over our back yard. And it would significantly worsen the shadow that is already being cast into our back yard. This suggestion would make the adverse impacts of Mr. Woods's porches far worse, not better.

    b. Mr. Woods also stated that his porches did not compromise the security of our back bedroom, due to the security door and bars that we have on the outside door and the window. Of the 40 or so houses on our side of our block, our house is the only one to retain second-story bars. The previous owner put bars everywhere, and we have been intending to remove them from the second story like all of our neighbors. But if Mr. Woods's construction remains, we would have to keep them. We do not believe that Mr. Woods should be granted a special exception for unlawful construction on the ground that we can retain bars that everyone else on the block has taken down.

8. We would also ask the Board to consider the fact that Mr. Woods's house is still a vacant shell and that Mr. Woods himself stated at the hearing that he does not know if he will keep it or sell it. If the rear decks are allowed to remain, we do not know how they will be used in the future, and no assurance given by or imposed on Mr. Woods will help us if the house is sold. For example, it would have a disastrous impact on our home if a new owner tried to enclose and weatherize Mr. Woods's new decks just as some prior owner apparently enclosed the original wooden porches. Unfortunately, the only real protection for our house is removal of everything in excess of the original footprint of Mr. Woods's house.

9. In order to get a special exception, Mr. Woods needed to demonstrate that his new construction "shall not have a substantial adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property," with special mention of the "light and air available to neighboring properties" and the "privacy of use and enjoyment of neighboring properties." 11 DCMR § 223.2 and subsections (a) and (b). Mr. Woods did not meet that burden at the hearing. Given the size, height, depth, and bulk of his rear decks, he cannot meet that burden. We have been living with the decks for nearly a year, and we know from experience that the problems identified in the ANC report are true.

Thank you for your consideration of this response.

Respectfully submitted,

Christopher T. Corson 11/19/01

Christopher T. Corson

Cheryl T. Corson (by cc) 11/19/01

Cheryl T. Corson