

The Board of Zoning Adjustment

441 4th Street NW, Suite 200 S

Washington DC, 20001

April 25, 2016

RE BZA Case 19256

We, Geoffrey S. Dow and Christina M. Werth (the "Affected Parties") are resident at and legal owners of the house and property at 1714 Hobart St NW (the "Affected Property"). We have requested Party Status in Board of Zoning Adjustment (the "BZA") Case 19256, and wish to provide the testimony herein in opposition to the proposed development at 1716 Hobart St NW (the "Applicant's Property").

The Affected Parties ask that the BZA deny the Request for Area Variance Approval at 1716 Hobart St NW (the "Request") submitted by Kerry Reichs (the "Applicant") on the basis that the Applicant has not provided proof that granting of an area variance would not impair the public interest pursuant to 11 DCMR § 3103.2.

The proposed designs include rear additions that project 2' 8" beyond the existing wall lines that will impair the right of the Affected Parties to enjoy light, air and privacy (§ 223.2a and § 223.2b). Because most of the adjacent properties on the south side of Hobart St NW have similar degrees of non-conformity (excess lot occupancy), granting of the area variance would create a precedent relevant to the adjacent properties. This would invite the proliferation of similar structures that may violate the rights of other Mount Pleasant residents to unimpeded light, air and privacy under § 223.2a and § 223.2b.

Since this will impair the public interest, the Applicant's variance request violates one of the three prong tests under § 223.2a and § 223.2b, so there is not a legal basis for granting the variance.

I. Jurisdiction

The BZA has jurisdiction to deny the variance relief requested by the Applicant in BZA Application No. 19256, pursuant to 11 DCMR § 3100.

II. Background

The Applicant's Property at 1716 Hobart St NW is located on the south side of the street in the R-4 Zoning District.

The Affected Property is the immediate neighbor to the east of the Applicant's Property.

We are aware that there are different regulatory processes in place to address historic issues. However, it is important for context, to note that the Applicant previously requested approval of an earlier version of the designs (the "Earlier Designs") by the Historic Preservation Review Board (HPRB) on December 17th, 2015. The Affected Parties, at that hearing, testified in opposition to the Designs on several grounds, including those outlined herein.

In their recommendations, the HPRB noted the lack of community consent to the Earlier Designs, and requested that the Applicant "simplify the rear wall line, possibly through removal of the oriel projections". The HPRB granted the Historic Preservation Office (HPO) the authority to approve a revised set of plans. To the best of our knowledge, as of the submission date of the correspondence herein, the Applicant had not submitted the plans received by BZA (the "Revised Plans") to, nor received final approval for them from, HPO.

In respect to the rear additions that extend beyond existing wall lines, the Revised Designs have not materially changed from the Earlier Designs when considered in the context of § 223.2a and § 223.2b.

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The Applicant's submission is confusing because it states that there are no proposed new walls that extend beyond the existing wall lines of 1714, 1716 and 1718 Hobart St NW. However, the additions themselves include windows and balconies that extend beyond the wall line. It is these that are of concerns to the Affected Parties.

III. Relief Requested By Applicant

The Applicant has argued in their submission to BZA that the proposed development depicted in the Revised Designs is compliant with all relevant zoning regulations.

The Affected Parties contend that the rear additions envisaged by the Applicant are not compliant with §223.2a and §223.2b, and since granting of a zoning variance would set a precedent, doing so would impair the public interest under § 3103.2.

IV. Proposed Developments of Concern to Affected Parties

The Revised Designs depict a proposed second floor rear addition that extends the floor space of the existing residence beyond that of the existing rear wall line at 1714, 1716 and 1718 Hobart St NW.

The Revised Designs depict a new roof top vertical addition which includes a balcony that extends back horizontally beyond the existing rear wall line at 1714, 1716 and 1718 Hobart St NW.

The second floor and roof top rear additions depicted in the Revised Designs and referenced above protrude 2 feet, 8 inches beyond the existing wall line at 1714 1716 and 1718 Hobart St NW.

The Revised Designs, in respect of the second floor rear addition that protrudes beyond the existing rear wall line, are confusing in that they do not graphically depict side windows, but the narrative text includes the option for such side windows.

V. Nature of Objection to Proposed Development

The impact of the proposed development on the Affected Parties is depicted in Exhibit I.

The Affected Parties utilize their rear deck for the purposes of eating meals, enjoying the weather as it permits, and entertaining ("Utilization Purposes").

It is clear from Exhibits Ib and Ic, depicting the silhouette of the proposed horizontal extensions to Applicant's Property, that the light and air available to the Affected Parties for Utilization Purposes would be diminished and impinged upon by the proposed redevelopment. It is therefore not true that the Revised Designs do not violate §223.2a.

It is also clear from Exhibit Ib that the 'optional windows' if included in the design would unduly impact the privacy of the Affected Parties in respect to Utilization Purposes. It is therefore not true that the Revised Designs do not violate §223.2b.

It is also clear from Exhibit Ic that the proposed roof top balcony looms over the rear deck at the Affected Property, and negatively and unduly influences use of same for "Utilization Purposes". In this respect it is also not true that the Revised Designs do not violate §223.2b.

Furthermore, it is unclear whether the proposed balcony on the roof top would allow the residents of Applicant's Property to see into the bedroom windows of the Affected Property. In this respect it may not be true that the Revised Designs does not violate §223.2b. It is incumbent upon the Applicant to prove that the Revised Designs are compliant in this respect.

It is clear from Exhibit 2 that there is an unbroken flush rear wall line from 1700 to 1732 Hobart St NW. It is also true that there are no rear additions that project beyond this wall line with the exception of a small bay window

that projects inches beyond this wall line on the first floor at 1702 Hobart St NW. It is also apparent visually in Exhibit 2, that all the properties from 1700-1732 Hobart St NW, to varying degrees, are non-conforming from a lot occupancy perspective. Therefore, the granting of an area variance would set a precedent for other properties to build similar, or more imposing rear additions that are non-compliant under §223.2a and §223.2b, and could affect all the property owners in this section of Mount Pleasant. **This would impair the public interest.**

Residents on the south side of Hobart St NW at **1700, 1702, 1704, 1706, 1708, 1710, 1712, 1714, 1718, 1726 and 1730 Hobart St** who received a BZA notice all signed a petition (Case 19256, Exhibit 24 incorporated herein by reference) requesting that the BZA not grant an area variance because to do so would not be in the public interest.

We note that ANC1D referenced the above petition in the passage of a resolution (4 in favor, one against) opposing the granting of an area variance for 1716 Hobart St NW on April 25, 2016.

VI. Conclusion

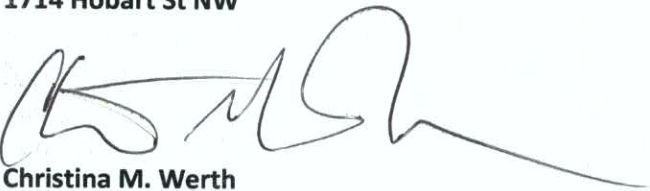
The Affected Parties submit that the granting of the requested area variance in BZA case 19256 would not be in the public interest, and that there are not grounds for granting such a request under §3103, because the rear additions envisaged in the plans block light, air and privacy (§223.2a and §223.2b) of adjacent residents and a precedent would be set that would similarly affect the rights of other residents in 1700-1732 row of Hobart St NW.

Very respectfully,



Geoffrey S. Dow

1714 Hobart St NW



Christina M. Werth

1714 Hobart St NW

Exhibit I:

- A. The rear deck at 1714 Hobart St NW is depicted, looking west towards the rear of 1716 Hobart St NW. The tape measure depicts the approximate distance to which the proposed second floor bump out, and proposed third floor balcony would protrude.
- B. The red lines depict the approximate silhouette of the rear additions superimposed on the property at 1716 Hobart St NW. These block the air and light available to the residents of 1714 Hobart St NW to a much greater degree than the existing structure.
- C. The red blocked area depicts the approximate silhouette of the proposed rear additions at 1716 Hobart St NW. The black hashed line depicts the approximate roof line above which would be the proposed third floor balcony. These additions would impinge on the privacy of the residents at 1714 Hobart St to a much greater degree than does the existing.

Exhibit II:

This exhibit depicts a satellite photo of part of the 1700 block of Hobart NW west. The red horizontal lines depict the uniform existing rear wall line between 1700 and 1732 Hobart St NW. Structures in the rear of many of the properties (indicated by diagonal hashed lines), when combined with the residence, occupy at least 60% of the property in most cases and at least 70% in many cases. If granted, the proposed variance would set a precedent that would invite the proliferation of rear additions which will impede on light, air and privacy.



EXHIBIT IA



EXHIBIT IB



EXHIBIT IC



FLUSH REAR WALL LINES

EXHIBIT II

NON-CONFORMING STRUCTURES