

Statement re: Area Variance Burden of Proof

I am seeking 5 variances in order to build a deck so that my young family can enjoy being outside together over a space that is now occupied by a brick planter that renders the space unusable by anyone.

The most important things to know about the proposed deck is that it will not change the way we currently use our parking, a walkway to the basement, or *functionally* impact our lot coverage because the area we want to build a deck over is already taken up by a brick planter. We will still be able to park behind our house without edging into the alleyway and, should the BZA grant these variances, be able to enjoy being outdoors as a family just like every other homeowner on my block is able to do with their decks and/or fenced in yards. It is also important to note that ANC 3F voted UNANIMOUSLY 6-0 in favor of the proposed deck and associated variance requests, and all the neighbors I have spoken with so far support my request as well.

Variances 1 and 2

Two of the variance requests relate primarily to lot coverage. My home is zoned R-1-B and its construction predates the relevant zoning laws. It occupies more of the lot than would be permitted were it built today. Hence, a variance is required from Section 2001.3(b) for an addition to a nonconforming single family dwelling in the R-1-B residence zone (§ 3103.2) as well as a variance from Section 403.1 for an addition that exceeds the maximum lot occupancy requirement in the R-1-B residence zone (§ 3103.2).

Because the house is already over the limit – I am allowed 40% lot coverage and the house takes up 45% – I cannot build anything above 48 inches from the ground without a variance. Thus, while the deck would technically increase my lot coverage because it is over 4 feet high, in practice it would not increase my lot coverage since that space is currently in use by a brick planter. I have attached pictures of the area we propose to build the deck over and you can see there that the space is both covered by the planter while remaining non-functional.

Granting these two variances will not be of substantial detriment to the public good or be inconsistent with the general intent and purpose of the Zoning Regulations and Map. First – as noted above, the area that will be decked over is already in use – it is covered by a brick planter. Permitting us to build a deck will allow us to use this space in a functional way – currently the area is unusable. Further, it appears that practically every homeowner in my neighborhood has either or both a fenced in yard or a deck that allows their families to spend time together outdoors. Allowing us to build this deck will permit my family to do the same thing and would, in effect, be *more* consistent with the neighborhood since at present my home is an outlier.

Variance 3

The third variance is from Section 2115.1 to reduce the minimum length for an automobile parking space in the zone R-1-B residence zone (§ 3103.2). Granting this variance will not be of substantial detriment to the public good or be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

As set forth above, the space we are seeking to build a deck above is taken up by a brick planter and unusable. And, as can be seen in the pictures attached to my application, my car – a 2013 Toyota Prius family sedan – comfortably fits in the space that will remain for parking once the deck is constructed.

We have been parking a car in the proposed parking area since we first moved into the home in 2014 without coming close to edging into the alleyway. A 2013 Toyota Prius measures 176.4 inches long, which comes out to 14.7 feet, leaving plenty of room to park the car without it edging into the alleyway. As you can see from the attached pictures, a longer car would fit into the space as well.

Finally, I would note that two cars easily fit into the space behind my home and will still be able to fit there should the deck be built. Although we are only required to have one parking space – and only have one car – we deliberately chose not to build anything in the second car space in order to not impact those who rely on street parking.

Variance 4

The fourth variance is from Section 404 for an addition that does not comply with the minimum rear yard requirement in the R-1-B residence zone (§3103.2). Granting this variance will not be of substantial detriment to the public good or be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

As set forth above, there already is a brick planter in this area that renders much of the yard unusable. On paper the planter is below the threshold for counting as coverage for the rear yard but in reality, it means that the amount of space the rear yard will “shrink” is much smaller than what the variance request makes it seem like. Should the BZA grant this request there will be *more* outdoor space for us to use, since now the “rear yard” consists of a brick planter covered by shrubs and a parking pad. With a deck there would be a functional “rear yard” for my family to enjoy.

Variance 5

The fifth variance is from Section 406 for an addition that does not comply with the minimum open court requirement in the R-1-B residence zone (§ 3103.2). Granting this variance will not be of substantial detriment to the public good or be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

Because of the brick planter, the “open court” that exists now is already only four feet wide. We deliberately limited the width of the proposed deck so that there would be no impact to the walkway used to enter/exit the basement’s exterior door. Granting this variance has no practical day to day impact because the “open court” space will not change. The proposed open court still allows for individuals to enter/exit up/down a short flight of stairs and access the home.

As to the “open court” on the landing of the stairway – that landing will remain the same size with the proposed deck and, again, result in no impact to the “open court” as presently constructed.

Conclusion

We are going about this project the right way, working with a reputable company, and seeking all the appropriate permits and variances. Numerous contractors told me that I did not need to get this job permitted when I solicited bids for the deck. I didn’t believe that to be the case and chose to go forward with a company that wanted to do the work properly. However, even a cursory glance at current real estate listings for DC townhouses or a drive down many alleys in the city would reveal hundreds of homes just like mine with decks or other additions that allow the occupants to enjoy being outside. I find it difficult to believe that all these homeowners sought the appropriate permits or variances to do the work they did.

I hope the BZA will grant these variances so that I am not prevented from doing what many of my fellow homeowners have done. Allowing us to build this deck will permit my family to do – the right way – what others have done and, in effect, be *more* consistent with the neighborhood since at present my home is an outlier in a community that is full of homes with decks and/or fenced in yards.

Thank you for your time and consideration.

Sincerely,



Alejandro Rosenberg
3522 Davenport Street, NW
Washington, DC 20008