

1226 North Carolina Ave NE
Washington, D.C. 20002
Edward Griffin
202.361.5246

February 14, 2018

Board of Zoning Adjustment
Government of the District of Columbia

VIA EFILE

STATEMENT IN SUPPORT OF REQUEST FOR SPECIAL EXCEPTION

Re: Enclosure of deck area on existing 3 story Family Dwelling
Location: 1226 North Carolina Ave NE
Square: 1012 Lot: 0122
Zone: RF-1
DCRA Building Permit: B1612441
DCRA ZA Case: FY-17-39-Z
BZA App. No. 19593

Dear Board of Zoning Adjustment,

We are seeking to partially enclose an existing third floor deck off the back of our three story family dwelling. We are requesting that our application for a special exception be granted for:

1. Subtitle C § 202.2, Additions to Nonconforming Structures; and
2. Subtitle E § 304.1, Lot Occupancy (60% Maximum, 70% proposed).

We believe that we meet the requirements for a special exception to allow us to partially enclose our existing third story deck. Our specific arguments in support are as follows:

5201.2 Special exception relief under this section is applicable only to the following:

(a) An addition to a residential building. . . .

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The proposed partial enclosure consists of an addition to an existing building, which satisfies this requirement.

5201.3 An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

The proposed enclosure on the existing third floor deck would be 192.5 square feet in area, and would have a lot occupancy less than the existing first and second floors, as a short balcony would remain at the rear.

The enclosure would likely result in shadowing on immediate adjacent properties in the winter months.

Both 1224 NC and 1228 NC, our abutting neighbors, have two story additions, the roofs of which would be impacted. I have spoken with both property owners, reviewed the plans with them and neither have any objection to the proposed enclosure as shown by the record. The owner of 1224 NC has provided a letter of support. The owners of 1228 NC gave me cupcakes yesterday.

The owner of 1230 NC is concerned that the proposed addition would negatively impact her second story bedroom window, which is on a rear addition. In support of her contention, she has submitted a photo shopped picture of her back bedroom window completely obscured by the proposed enclosure. This photograph is not an accurate representation of either the proximity of the proposed enclosure to her window or the impact, if any, that the enclosure could have on 1230 NC.

In support of this application, I have taken a number of photographs of the property and adjacent area, which I have included in this submission. The photographs are fair and accurate representations of what they purport to be.

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I took this picture of the window on December 20, 2017, at approximately 2:32 pm, from the roof of my property. It shows the green second floor roof of 1228 NC in shadow. It also shows the 1230 NC window in shade, at least in part, from protruding chimneys.



I took the following picture of the window on January 13, 2017, at approximately 12:28 pm, from the deck of my property. It shows the green second floor roof of 1228 NC in shadow. It also shows the 1230 NC window completely in shade.

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I took this picture of the window on January 13, 2017, at approximately 4:16 pm, in the waning hour of the day, from the deck of my property:



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We have commissioned a sun/shade study to look at the possible impact, if any, of the proposed enclosure on 1230 NC's bedroom window from Ms. Wakako Tokunaga, AIA, LEED, AP of Wakako Tokunaga Architecture LLC. The study was produced using Google Sketchup to create the mass model. The exact coordinates and orientation were inputted to simulate the shadow, if any, at different times of year and day. Ms. Tokunaga created a series of four representative renderings, Winter (December 21), Spring (March 20), Summer (June 21) and Fall (September 22), with a snap shot of every hour between sunrise and sunset, which have been uploaded onto IZIS for the Board's review. The dates examined were selected at random and if the Board would like to see any additional dates, they can be prepared upon request. The cost was \$2,500.

Of course, the study does not account for trees, jutting chimneys and other protruding items, which already impact access to direct sunlight. It treats both existing structures and the proposed structure as uniform boxes. The study shows that the proposed addition could have an impact on the top portion of the window's access to direct sunlight at the height of winter in the early afternoon between 2:30 pm until sunset at 4:30 pm. As the picture above clearly shows, however, 1230 NC's bedroom window does not get much direct sunlight in the winter months. The existing structures, jutting chimneys and other protruding items already impact the window's access to direct sunlight during those hours of the day. The mature trees on adjacent properties will also likely impact light in the area when the foliage is present.

Therefore, I believe the impact of the proposed enclosure will be minimal and not unduly affect 1230 NC's use of her property.

The owner of 1230 NC has also alleged that the proposed addition would impact her ability to have solar panels installed upon her roof, which I will now address.

I took the following picture on December 20, 2017 at approximately 230 pm, while standing on our roof, 1226 NC. It shows the existing solar panels installed by 1228 NC and the bare roof of 1230 NC.

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1230 NC does not have solar panels on her roof, and therefore they cannot be impacted. The concern is merely speculative. Indeed, if every homeowner was required to show that they wouldn't impact every fanciful imagined possibility, it would lead to absurd consequences and demands. There are no solar panels and no impact.

Moreover, even if 1230 NC installed solar panels on her roof, they would not be impacted by the proposed addition. They would presumably be installed consistently with the existing solar panels on 1228 NC, which are in the front of the property and have absolutely no chance of being impacted by the enclosure, which is in the rear of the property potentially impacting only the Western side and not the roof. Moreover, the shade study confirms that the proposed enclosure will not have any impact on this part of her roof.

Lastly, 1230 NC argues that the proposed enclosure might impact her backyard garden. I took the following picture on December 20, 2017 at approximately 2:30 pm, which shows 1230 NC's backyard. It is the second area with the white fence. A couple of small empty pots are also observable. As can be seen from the photograph, 1230 NC's

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stone covered backyard does not have direct access to sun light during the winter months. Moreover, the shade study confirms that the proposed enclosure will not have any impact on this part of 1230 NC.



Overall, I believe the impact of the proposed enclosure will be minimal and not unduly affect the abutting or adjacent neighbors' use of their property.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The proposed enclosure would result in greater privacy to abutting and adjacent neighbors, as we would no longer be having family brunch or dinner out on the back deck.

In particular, 1230 NC will gain greater privacy for 1230 NC's bedroom as 1230 NC's back bedroom window currently faces our deck. In the past, that window was always covered for privacy. We purposefully did not include any windows on the eastern side of the enclosure to provide greater privacy to 1230 NC's bedroom window.

Therefore, the proposed enclosure would result in greater privacy to abutting and

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adjacent neighbors, which satisfies this requirement.

(c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not visually intrude upon the character, scale, and pattern of houses along the subject street frontage;

The proposed enclosure would not be visible from North Carolina Ave., since it is located behind the row houses and facing the alleyway. The alleyway is not fully navigable by automobile. Neither does it receive much, if any, foot traffic. It is predominately used for garbage cans.

Moreover it is not out of character with existing development and the proposal is similar in respects to a number of properties on the alleyway and pictures of them have been submitted along with our original application. The pictures show a number of properties along the alleyway that have similar constructions with our proposed enclosure. Indeed, there is only one other third floor deck along the alleyway.

As can be seen here, it would also be partly obscured by mature trees:

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This mature tree looms large over this section of the alleyway. I took this picture from our deck and you can see the back of our deck railing in the bottom left hand side. The tree looms larger, I believe, over 1230 NC than our own property and provides considerable shade in the Spring, Summer and Fall.

(d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and

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We have provided plans, photographs, drawings, and a shade study sufficient to represent the relationship of the proposed enclosure to adjacent buildings and views from public ways, which satisfies this requirement.

(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).

The proposed lot occupancy of the third floor is 70%, which is permitted with Board approval of the requested special exception.

5201.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

The proposed enclosure would not introduce a nonconforming use as it would function as part of a residential dwelling in the RF-1 zone, which satisfies this requirement.

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use as a special exception.

The proposed enclosure would not introduce or expand nonconforming height or number of stories. The resulting height of the proposed enclosure will be 32 feet and is an extension of the existing third story, and therefore conforms to the development requirements of the Zoning Regulations.

In summary, we are requesting that our application for a special exception be granted as any impact is minimal and, certainly, any minimal impact is outweighed by gains in privacy. Thank you for your consideration of this application.

Sincerely,

/s/

Edward Griffin

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Certificate of Service

I hereby certify under penalty of perjury that I served a copy this statement on Ms. Charlene Patton, through her attorney, Denise Pitts, Law Offices of Robert Weed, 300 Garrisonville Road, Suite 201, Stafford, VA 22554, via US mail and Email.

Sincerely,

 /s/
Edward Griffin