

Hello, I am Sarah Nickel, owner of 1834 15th Street NW, with my husband, Taylor. We know it's been a long day, and we appreciate your consideration of our strong opposition to the additions that 1832 is trying to build directly to our south.

We are new to our block compared to most of our neighbors – we purchased 1834 15th Street NW and moved in September 2018 – and the main reason that we wanted to live in the home was the unique sunlight-filled and airy backyard and the natural light that fills our house, especially in the rear of the house- from the west – where previous owners had installed picture sliding glass doors that make the backyard part of the living space. We were immediately impressed with the community and welcomed by most of the neighbors. We are grateful for their support both here today and through letters of opposition to the project – it's clear that the neighborhood overwhelmingly values protecting the historic open green spaces that make it so unique.

In our first year we've invested in the backyard landscaping, planted a garden and generally love spending time outside. This is a home – and an outdoor space – that we hope to live in and enjoy for a long time.

The addition that 1832 is proposing is too big, not in the nature of the neighborhood and will have an undue impact on our property.

We use our backyard as an extension of our living space and allowing this huge addition will impact our use, privacy and enjoyment of that space. One of the biggest reasons that we chose to make the investment in our home is the backyard and the opportunity for me to have a garden. I'm originally from Iowa, where there is a lot more green space - and while DC is my adopted home, being able to continue this particular hobby and passion here is really a dream come true. Previous owners of our home were botanists and put a lot of care and thought into the plants they planted and their landscaping – they identified the perfect space for a garden in the backyard, with ideal lighting for the longest growing season and built a beautiful in-ground garden box. The project at 1832 will change the conditions for our garden significantly and decrease the light available to it at important parts of the year.

We've included some photos of the garden at different points – I'm really proud of it and it was fun to share the vegetables with our neighbors and friends – the garden really is in the perfect spot. I replanted the garden three times during the year – with early spring greens, spinach, lettuce, rhubarb, and radishes; summer tomatoes, zucchini, cucumbers, peppers, eggplant, cabbage, summer squash and herbs; and late summer/fall veggies like kohlrabi, chard, beets and other winter greens. All of these grow best in full sunlight, especially the early spring and fall vegetables that need the noon sunlight, like our garden box currently gets. I also learned the importance of spacing for the vegetables to grow best – I was very excited and probably planted too much in there this year. I'm currently signed up for an Urban Gardening Certification and am excited to continue learning, gardening and feel so lucky to have the perfect space to do so.

Losing the full sunlight we have now on this part of our backyard would have an undue adverse effect on my garden in the future. I understand that even what 1832 can do as a matter of right will have a negative impact and put part of our garden in shade, but the difference between the 3'6" bump out that is allowed as a matter of right versus the 13'6" three story addition is truly significant and would really negatively impact what we can grow and the space we have in which to do so.

We also have a stunning Japanese Maple in the backyard that stands near the property line with 1832 and is taller than both of our garages – we both benefit from the beauty and organic shade the tree provides. We are concerned that the planned garage construction will severely damage this 20+-year-old tree.

Taylor and I are also invested in this neighborhood, and personally, while it should not matter for zoning laws, it is where we hope to raise our family in the future. We're nearing the end of our own full-home renovation and throughout the process, it's been important for us to respect the historic character of the home and the neighborhood while modernizing it and making it work for our current and future family – our home will be a three bedroom, four and a half bath space all within the original footprint of the home and without any permanent negative impact on our neighbors' usage and enjoyment of their properties. We live in a great urban location and we all know that requires trade-offs – when we were choosing a house for ourselves and future family, we knew there were bigger houses available in our neighborhood, but very few – if any – had the outdoor space we so value. Finding a house on our block, with the outdoor space felt like finding a unicorn. We knew the tradeoffs and chose what we valued the most.

Our concern about the impact of this addition is more than just my hobby and something to enjoy part of the year – we're making a huge investment in the property and count the outdoor space as a significant part of our living space. We eat lunch and dinners outside, we gather friends and neighbors together there, it's where our dog plays, it's where our kids will play. This outdoor space is more than just 'green space' to us it's an important part of the home and our lives.

The project 1832 is trying to build will have a huge impact on our home and our usage – besides the significant increase of shade in the yard and impact on our garden, their just-shy-of 70% proposed lot coverage and addition of 15 new windows to the back of the house and the second story garage addition will look directly into our kitchen, deck, backyard, master bedroom and master bathroom, putting them in shade and taking away the privacy we now have.

We have been hoping for a compromise with our neighbors at 1832 even as we have been opposing this proposal for the better part of the last year. We again thank you for your thoughtful consideration of our opposition to their request for a special exception and appreciate your time.

BZA Application #20144
1832 15th Street NW

Comments by Party In Opposition

Presented By:

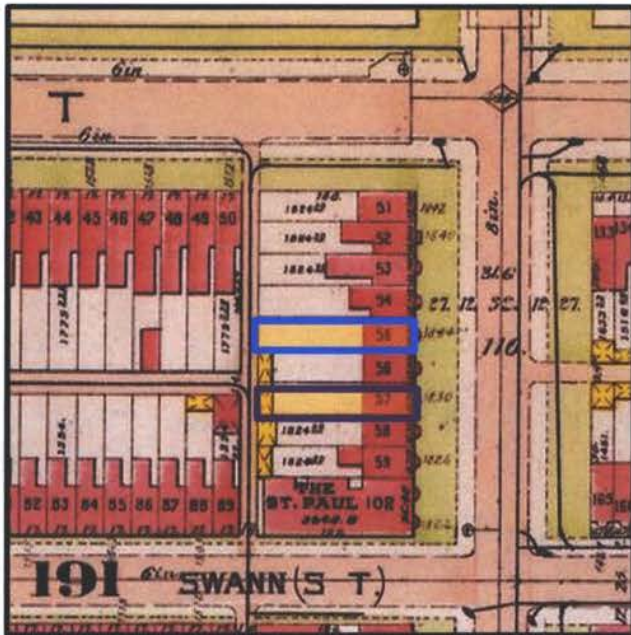
Samantha Mazo, Esq. - Cozen O'Connor

Counsel for Parties in Opposition:

Sarah and Taylor Nickel – Adjacent Property Owner

Britt and Peter Bepler – Adjacent Property Owner





- The Nickel Residence (Outlined in Blue): 1834 15th Street located to the north of the Applicant's Property (Lot 56)
- The Bepler Residence (Outlined in Purple): 1830 15th Street located to the south of the Applicant's Property (Lot 56)

69.75% Lot Occupancy + Garage Addition is too large

- Extreme special exception requires a higher burden of proof and increased scrutiny.**

- BZA has not granted any other special exceptions for 69.75% lot occupancy in RF zones.**

Project is Imposing & Oversized

- 69.75% Lot Occupancy**

- Building size increased by 35% (Adds 1,090 s.f.)**

- Adds 15 new windows looking into Neighbors' backyards & living areas (475% increase over existing)**

- Puts Nickels' garden in shade (no shade now)**

- Adds two offices to the Property (no offices now)**

Overwhelming Neighborhood Opposition

- 31 Letters in Opposition**
- Letters in Opposition are not “form letters”.**
 - Exhibit Nos. 33, 37-38, 40-41, 66-67, 72-73 & 76 are personalized & heart-felt letters from neighbors
- Dupont East Civic Action Association** opposes the Application and filed two letters in opposition (Ex. Nos. 59 & 87)
- ANC did not take a position even when presented with written resolution in support

Legal Test Requires Taking the Impact on the Neighbors' Property into Account

- For relief to be granted, the Applicant must demonstrate:
 - Relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and
 - “that the 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;
 - (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
 - (c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;”

Addition not in harmony with intent of RF-2 Zone

Purpose and Intent of the RF-2 Zone:

- “**Preserve areas planned as open gardens and backyards** and protect the light, air, and privacy that they provide.” § E-400.2(e)
- “Provide **strong protections** to retain its low scale ... character” § E-400.2(b)
- “....Controlling the **scale and density** of residential development.” § E-400.2(c)

BZA Recognizes Importance of Gardens in RF-2

“Protection of adequate light and air often goes hand-in-hand with protecting a reasonable amount of privacy, and all three of these important attributes of property ownership are reiterated in [Subtitle E § 400.2] **which states, as one of the purposes of the Dupont Circle Overlay [RF-2], the preservation of “areas planned as open gardens and backyards” and protection of “the light, air, and privacy that they provide.”**

- *BZA Case No. 17337-A denying special exception at 1743-1755 N Street NW because of impact on gardens*

Addition not in harmony with intent of the 10'-Rule

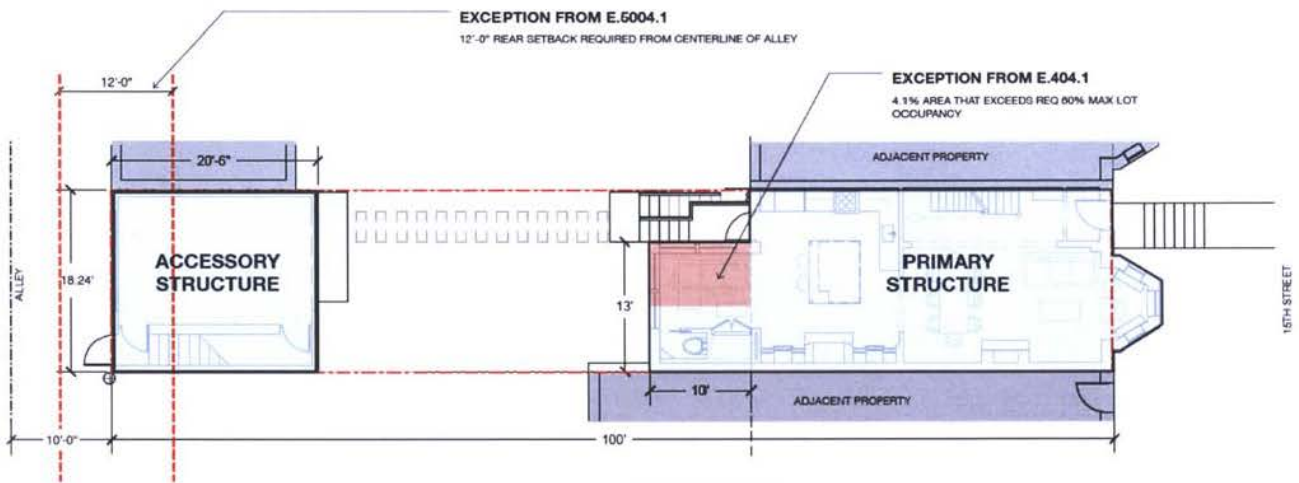
- The 10'-Rule is intended to:
 - Allow the Zoning Commission to have “control” over “pop-backs” (ZC Tr. 3/27/17)
 - “address concerns about excessively disproportionate rear extensions adjoining attached and semi-detached buildings” in the RF-1 Zone (ZC Order ZTA 14-11B)
- Board has not found the requested 13.25' length to be “De Minimus”.

Addition not in character with block



Rear portion of building to the north of the Nickel's house is open with verandas that have minimal visual impact

Proposed Addition is Larger than Relief Approved for 1828 15th Street NW



Adverse effect on Beplers & Nickels is Substantial and Undue

Webster's Unabridged Dictionary definition of "Undue"

“Unsuited to the time, place or occasion”

“Exceeding or violating propriety or fitness”

Synonyms in the Webster's Unabridged Dictionary

Immoderate

Excessive

Unwarranted

Improper

Adverse affect on Beplers & Nickels is Substantial and Undue

- Will substantially impact the light to the Nickels' Garden.
 - Impact on the Nickels' garden is undue – adds substantial shade when none now exists.
 - Fall/Spring Equinox: Addition puts more than 70% of garden in shade
 - Winter Equinox: Addition puts more than 60% of garden in shade
- Will unduly compromise privacy of use and enjoyment of the Bepler and Nickels' homes.
 - 15 new windows on rear of Addition and Garage Addition creates a fishbowl: Allows direct and unobstructed views into both Bepler/ Nickels' backyards.

Clarifications on Matter of Right Project:
Lot Occupancy controls building size

Applicant CANNOT have a 10'-Addition as a matter of right if Lot Occupancy exceeds 60%

Subtitle B § 312 establishes:

“Lot occupancy regulations are intended to provide a primary control of the total volume of buildings on a lot through the restriction of a building’s horizontal area.”

“The lot occupancy standards applied through land use subtitles are intended to contribute, along with height regulations, to ensuring that buildings within a zone are generally consistent in their volume.”

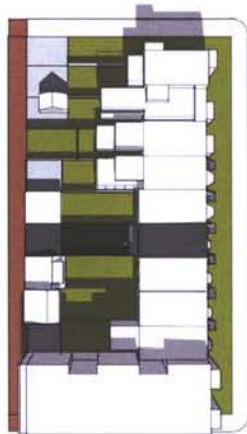
**Matter of Right Project: Limited to 3'-6" Long
Rear Addition**

60% Lot Occupancy s.f.	Amount of Increase over Existing	Length of Rear Addition
1,094.52 s.f. (1,824.2 [lot area] x 60%)	64.5 s.f. (1,094.52 s.f. [60% lot occupancy] - 1,030.8 s.f. [existing building])	3'-6" (64.5 s.f. [increase] / 18.24 lot width)

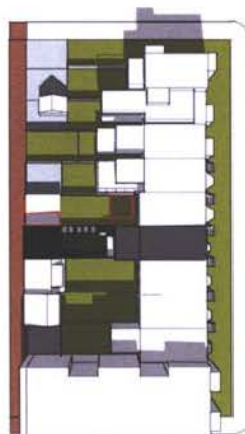
Applicant's Shade Study Is Misleading

- "Matter of Right" design is too big and removes garage:
 - Maximum "Matter of right" Addition would be 3'-6" (60% lot occupancy limits addition length to 3'-6")
 - That "Matter of right" addition would be 65% smaller than what is shown.
 - New shade from proposed project would be 65% larger than shown.
 - Puts substantial & undue shade on Nickels' garden
 - Removal of garage would require HPRB approval

With correct 3'-6" Matter of Right addition, purple box shows actual amount of additional shade cast by Applicant's Proposal in Spring/Fall



Existing



Proposed

ADDITIONAL SHADE



Matter of Right

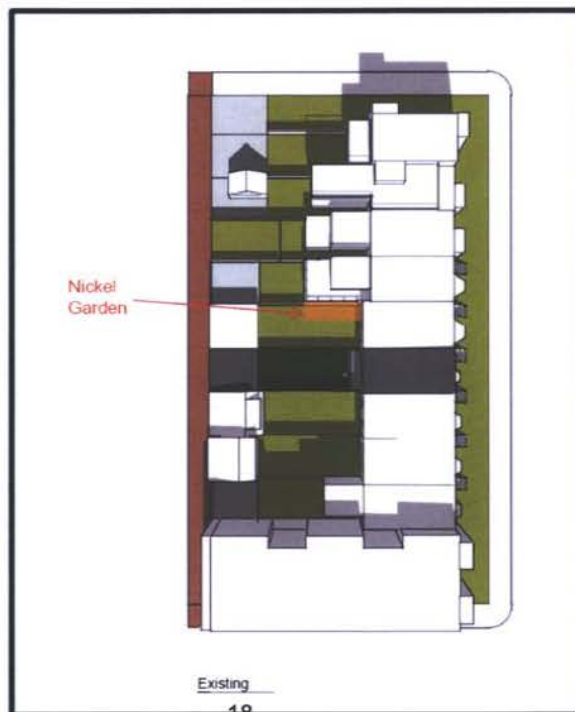
ADDITIONAL SHADE FROM PROPOSED

⊕ SPRING/FALL EQUINOX - 12:00 PM
Washington, DC
Latitude: 38.914435N Longitude: 77.048475W

FOR DESIGN PURPOSES ONLY
Schematic design for:
1832 15th St NW
Washington, DC 12.09.18
SSP

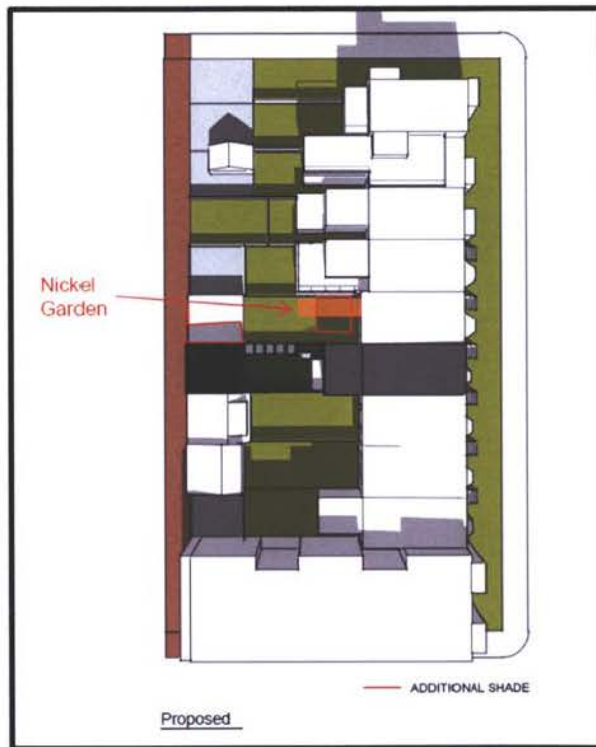
Spring/ Fall: Current Conditions: No Shade on Nickel Garden

⊕ SPRING/FALL EQUINOX- 12:00 PM
Washington, DC
Latitude: 38.915453N Longitude: 77.034865W



Spring/Fall: Application puts more than 70% of Nickel Garden in shade

⊕ SPRING/FALL EQUINOX- 12:00 PM
Washington, DC
Latitude: 38.915453N Longitude: 77.034965W



With correct 3'-6" Matter of Right addition, purple box shows actual amount of additional shade cast by Applicant's Proposal in Spring/Fall



EN
NNOR

Winter Solstice: Current Conditions: No Shade on Nickel Garden

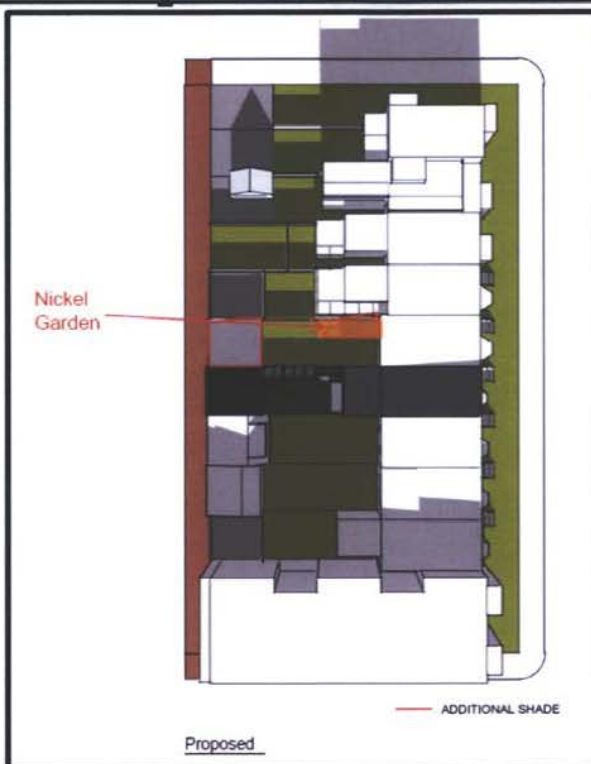
⊕ WINTER SOLSTICE - 12.00 PM
Washington, DC
Latitude: 38.915453N Longitude: 77.034865W



Winter Solstice: Application puts more than 60% of Nickel's Garden in shade



WINTER SOLSTICE - 12:00 PM
Washington, DC
Latitude: 38.915453N Longitude: 77.034865W



15 New Windows Allow Direct Views into Rear Gardens



Proposed Rear View

Large Garage Commercial Office Windows look right into backyards & neighbors' bedrooms.



Proposed Garage View from Courtyard

**OZEN
CONNOR**

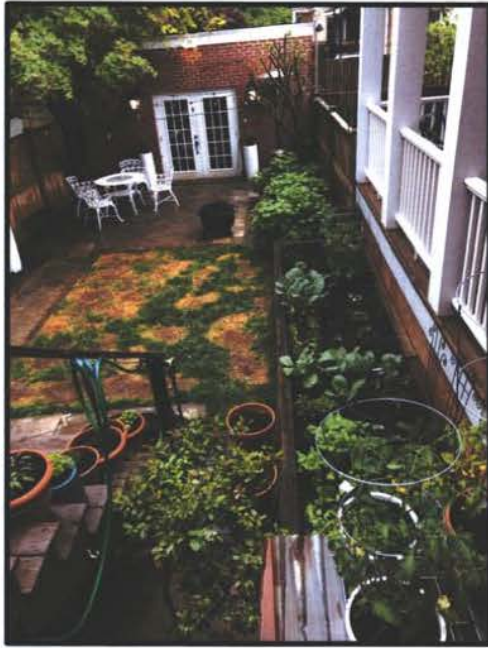


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BZA Precedent to Deny Special Exceptions

- Special exception test requires evaluating the impacts together (light, air, privacy, character), Geoff Griffis said the test is “all encompassing.”
- BZA Case No. 17349: Special exception denied when Board found that “privacy and enjoyment of neighboring properties” would be unduly compromised due to addition of new windows with views into adjacent backyards.
- BZA Case No. 16780: Special Exception denied when Board found that addition “casts significant shadow” over the adjacent property.

Shade from project will impact Nickels' Garden



Shade from project will impact Nickels' Garden



Shade from project will impact Nickels' Garden & Planters



Windows in Addition and Garage Office will allow direct views into backyards and bedrooms



Addition will block light and air from Nickel's Kitchen



Addition will block light and air from Nickel's Bedroom



Addition Will block light and air from Beplers' First Story



These direct views will unduly compromise privacy and enjoyment



Views from Project will create fishbowl that unduly compromise privacy



Fishbowl views into backyard will unduly compromise privacy and enjoyment



Project will unduly compromise privacy and enjoyment



Burden is on Applicants to Prove their Case

Applicants **MUST** present evidence to meet the burden of proof.

- 901.3 The applicant for a special exception shall have the full burden to prove no undue adverse impact and shall demonstrate such through evidence in the public record. If no evidence is presented in opposition to the case, the applicant shall not be relieved of this responsibility.

Subtitle X-43



**The Applicants have not met their
burden of proof.**

Application should be denied.

Back of Deck

Project Dimensions

<u>Lot Dimensions</u>	- <u>Lot Width</u> : 18.24 - <u>Lot length</u> : 100' - <u>Lot Area</u> : 1,824.2 s.f.
<u>Footprint of Existing Improvements</u>	1,030.8 s.f. (56.5% Lot Occupancy)
<u>Square Footage of Existing Improvements</u>	3,091.4 s.f. (1,030.8 s.f. x basement and two stories)
<u>Maximum Matter of Right Footprint at 60% Lot Occupancy</u>	1,094.52 s.f. (1,824.2 [lot area] x 60%)
<u>Maximum Possible Matter of Right Footprint Expansion</u>	64.5 sq. ft. (1,094.52 sq. ft. [60% lot occupancy] – 1,030.8 sq. ft. [existing building])
<u>Maximum Matter of Right Length of Rear Addition</u>	3'- 6" (64.5 sq. ft. [increase] / 18.24 ft. lot width)
<u>Lot Occupancy with a 10' Addition (which Applicant incorrectly claims is "matter of right")</u>	66.5% (1,213.2 sq. ft. [increase from 10' addition x 18.24 ft. lot width = 182.4])
<u>Lot Occupancy proposed by Applicant</u>	69.75% (1,272.5 sq. ft, a 13.75% increase over existing). This is only 4'-3" BELOW the 70% Lot Occupancy threshold for a variance (1,276.9 sq. ft).
<u>Total Building Expansion proposed by Applicant</u>	39.75% Increase in building size (addition of 13.25% on three levels)(4,180.85 sq. ft.)

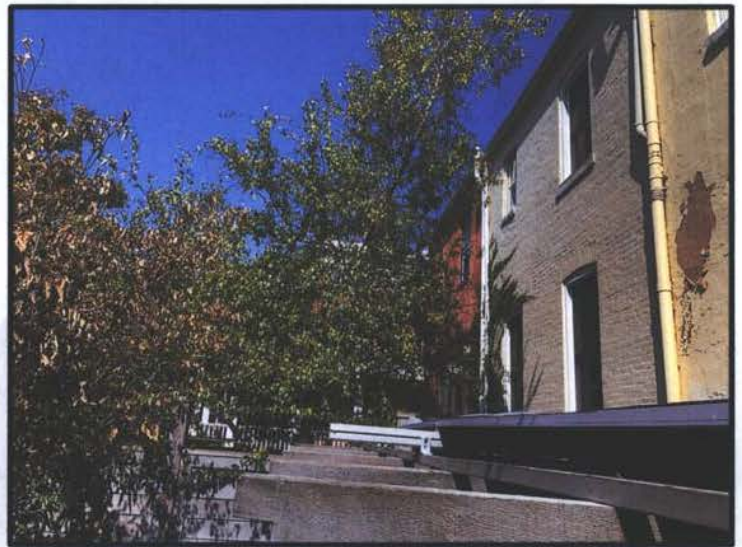
Also needs the following relief

- Rear Yard
 - 32.5% longer than permitted
- Alley Center Line Setback for the garage
 - Adding a second floor to the garage requires relief
 - Not a “given”
- Extending the existing non-conforming
 - Garage is already non-conforming
 - Adding a second story is only making it worse.

Existing Conditions – 1830 15th Street NW



1830 15th Street –Retractable Awning



Existing Conditions – 1834 15th Street NW



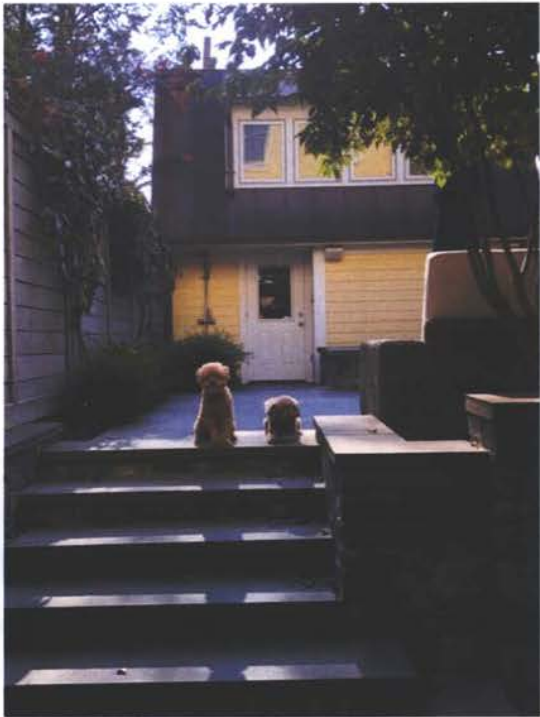
Existing Conditions



Existing Conditions – 1830 15th Street NW



Existing Conditions – 1830 15th Street NW



1830 15th Street NW



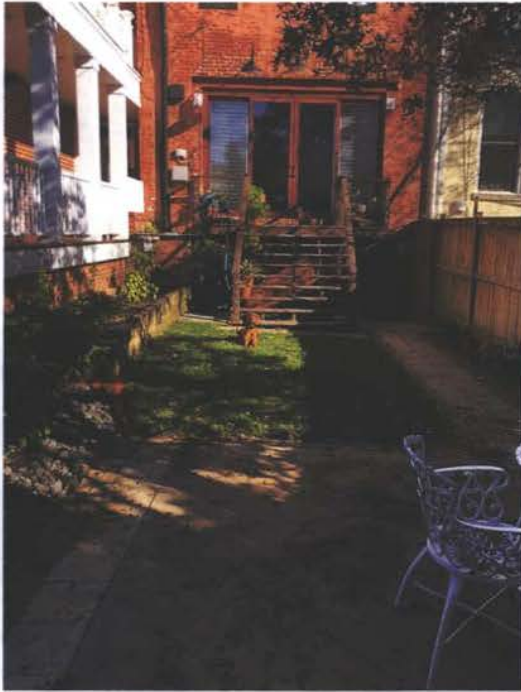
1830 15th Street NW



1830 15th Street NW



Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



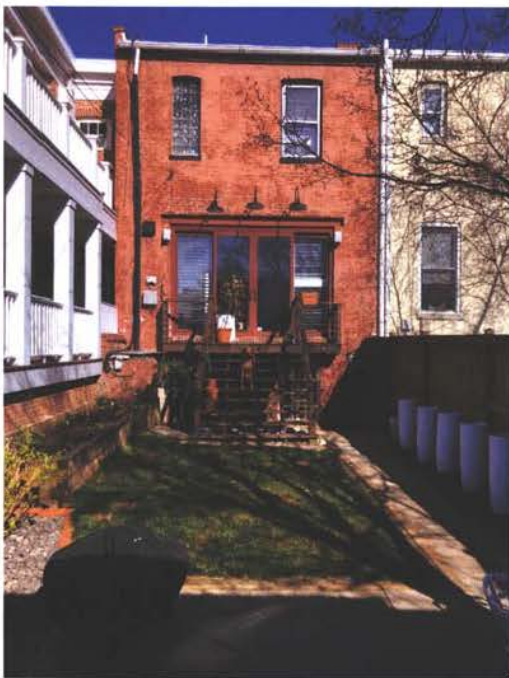
Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



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Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



Existing Conditions – 1834 15th Street NW



Addition will unduly compromise use & enjoyment



Addition will unduly compromise use & enjoyment



Nickels & Bepler Shadow Study is Correct

Follow-up request

Leroy Johnson <leroy@fourbrothersdc.com>

Tue, Dec 10, 2019 at 12:11 PM

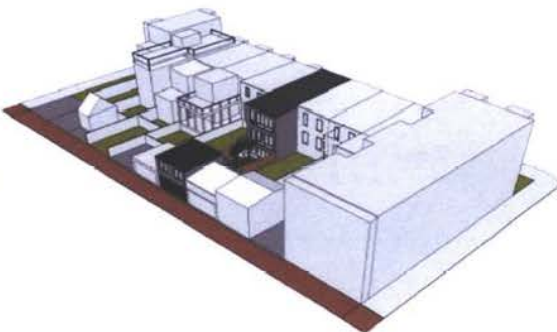
To: Peter Bepler <peterbepler@gmail.com>

Cc: Leroy Johnson <leroy@fourbrothersdc.com>, Brittany Bepler <brittanybepler@gmail.com>

Hi Peter,

We reviewed the sun study, and it is generally accurate to the best of our knowledge. The model was created in Sketchup, and the shade study is automatically generated by their software using latitude/longitude and time of day/year. While it is not down to the inch, it gives a good picture of what to expect. Also, it should be pointed out that even the most basic knowledge of astronomy is sufficient to conclude that when placing a structure directly to the south of a property in the northern hemisphere, shade will indeed be cast on the property to the north.

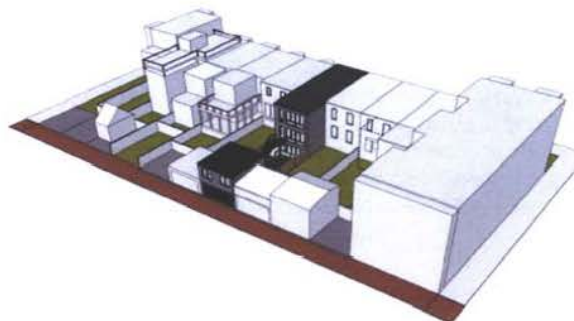
Leroy Johnson
Four Brothers LLC
leroy@fourbrothersdc.com
(202) 210-9118 (cell)



#6



#4



#5

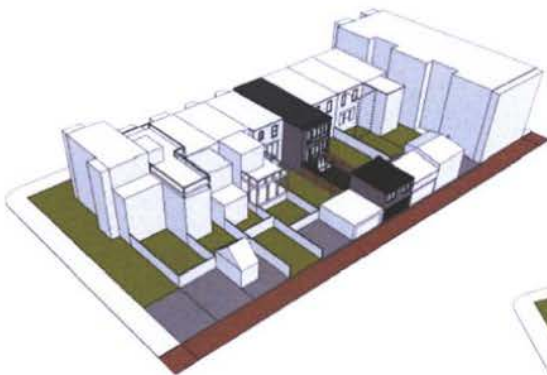
Axonometric Views of Block

FOR DESIGN PURPOSES ONLY
1832 15th St NW
Washington, DC

12.09.19

A-1.11





#1



#2



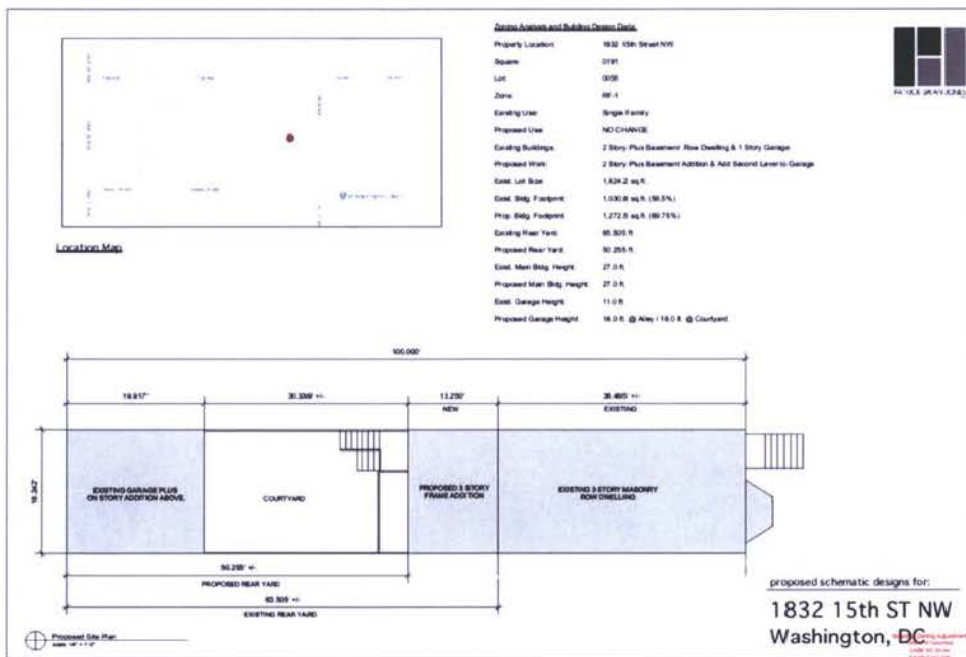
#3

Axonometric Views of Block

FOR DESIGN PURPOSES ONLY
Architect: Brian Jones
1832 15th St NW
Washington, DC

12.08.18

BZA Application 20144



Existing Conditions – 1832 15th Street



Proposed Rear Addition – 1832 15th Street NW



Proposed Rear View

Proposed Accessory Building 1832 15th Street NW



Proposed Garage View from Courtyard

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CONNOR**



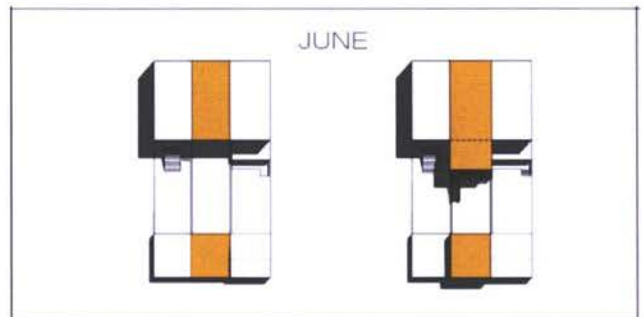
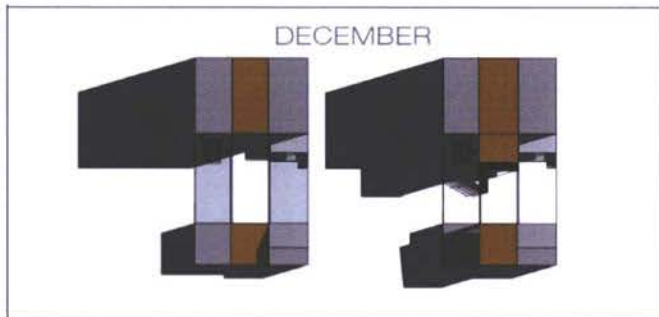
Shade Study

Takeaways and Percentage Covering

Board of Zoning Adjustment
District of Columbia
CASE NO 20144
EXHIBIT NO 06

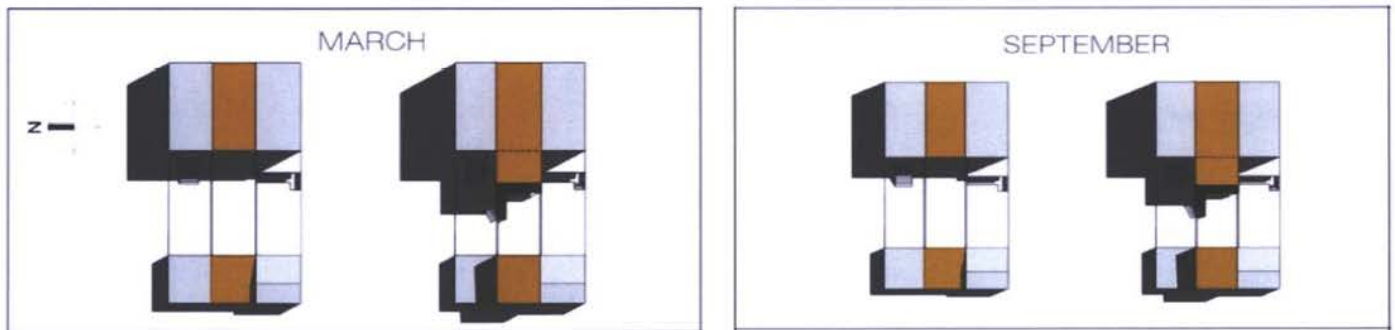


Shading Effects Compared to Existing Structure:
Solstices* (December 21 and June 21): 11am



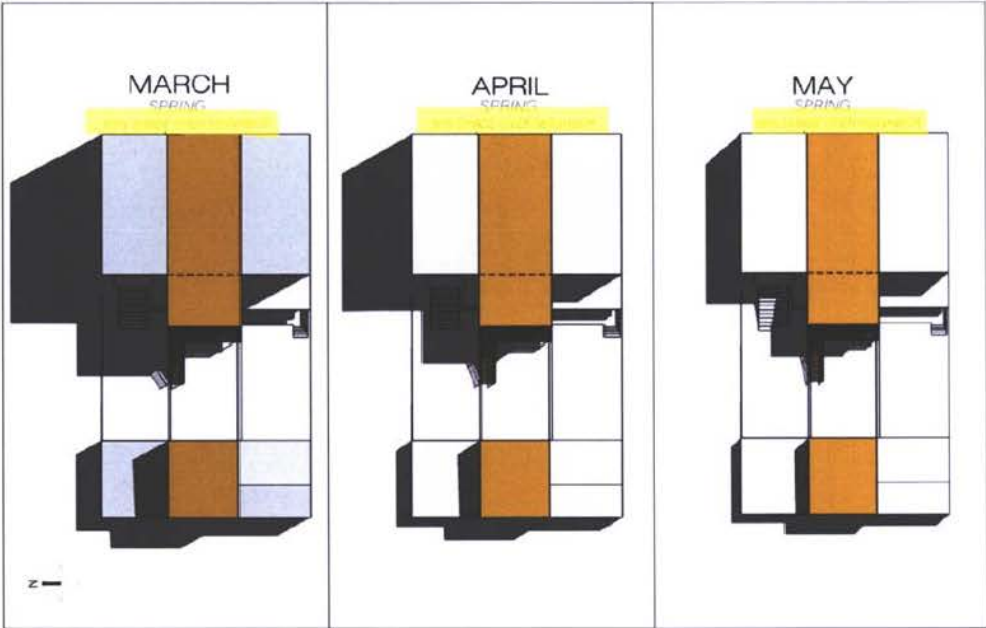
*The solstices are highlighted as the times of year where the angle of the sun is at its lowest (December), and highest (June).

Shading Effects Compared to Existing Structure:
Equinox (March and September 21): 11am

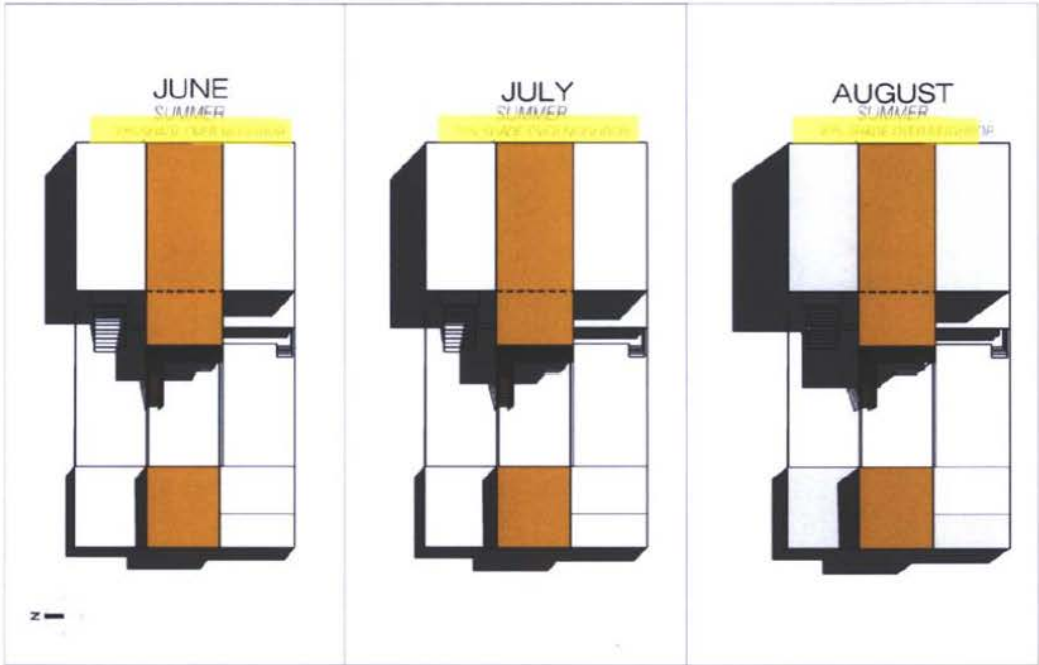


From a backyard use and enjoyment perspective, the most significant impact on light and shading will take place in the spring and fall, when an otherwise sunny rear yard will be covered by 60% shade.

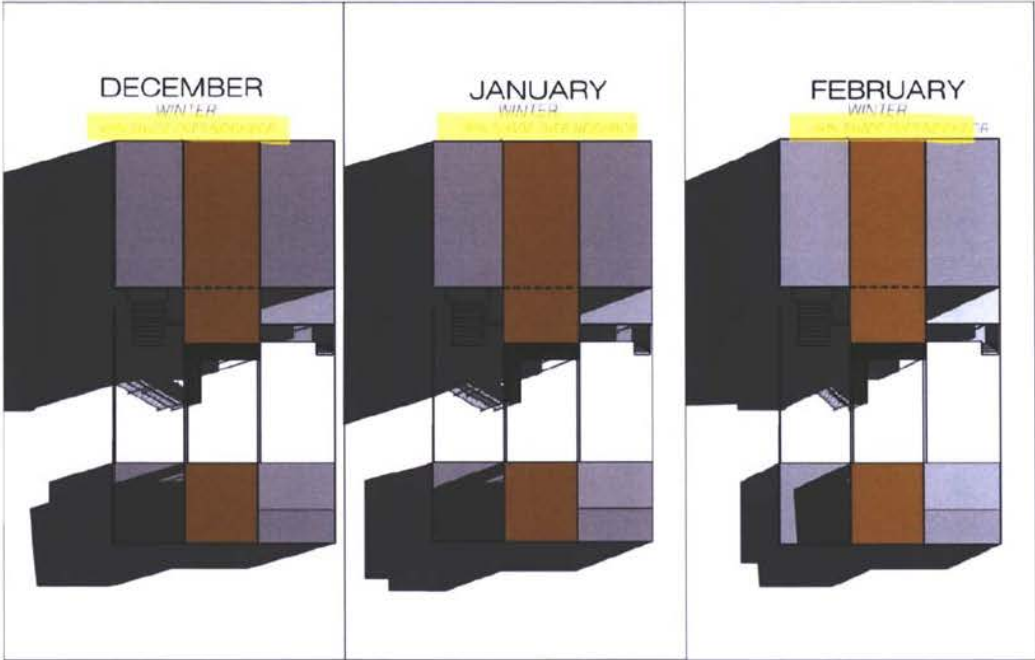
Spring (and Fall) Shade Coverage: 11am on the 21st of Each Month



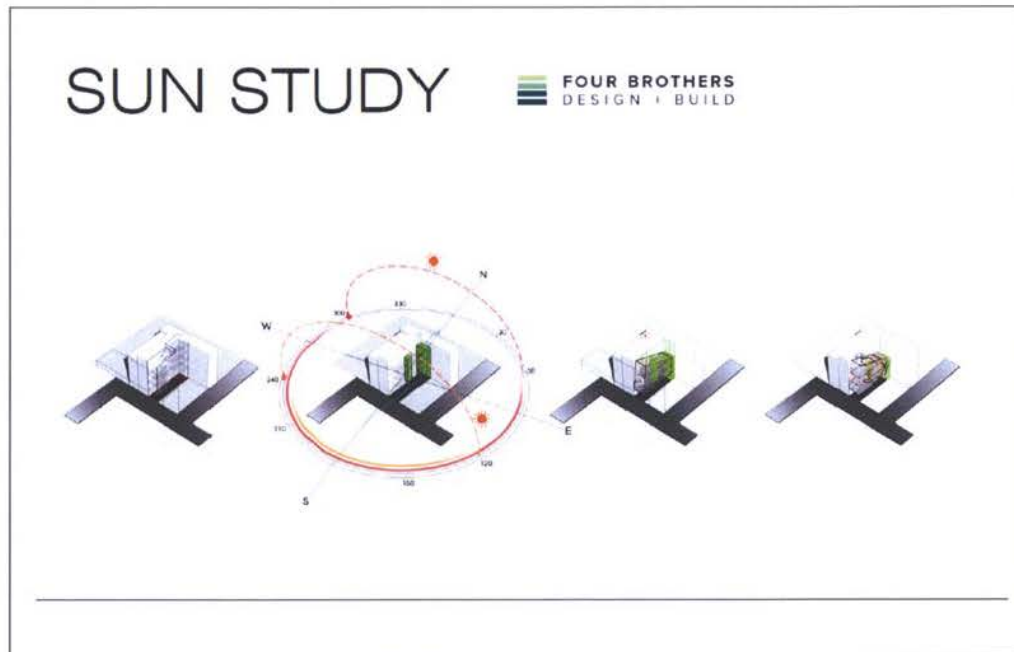
Summer Shade Coverage: 11am on the 21st of Each Month



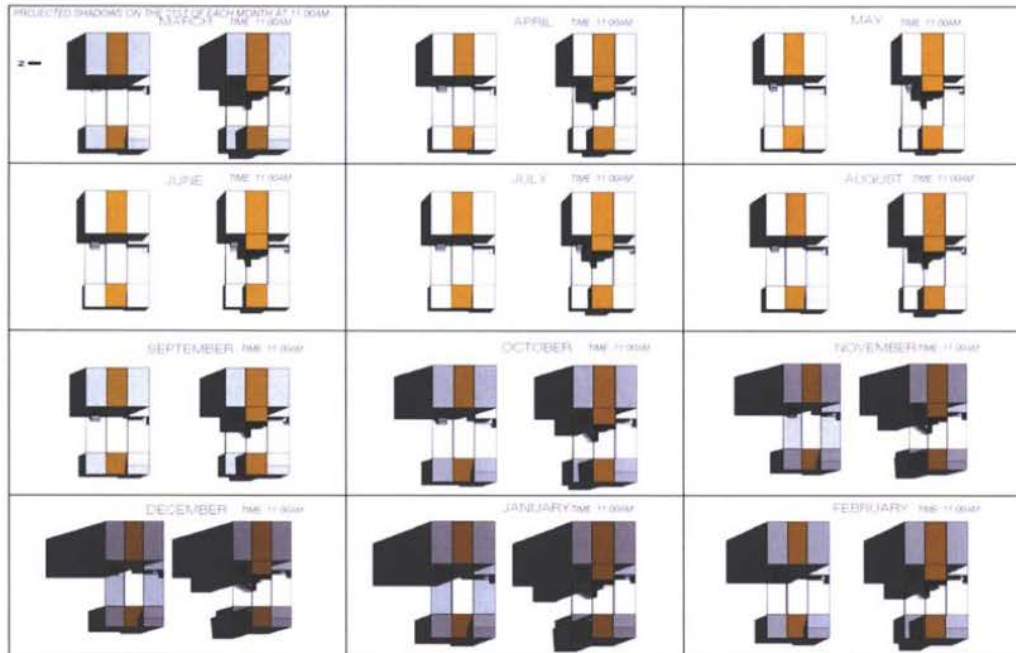
Winter Shade Coverage: 11am on the 21st of Each Month



Updated Sun Study



Updated Sun Study



Proposed Accessory Building 1832 15th Street NW



Proposed Garage View from Alley

Proposed Rear Addition 1832 15th Street NW



Project Does Not Meet The Standard for Special Exception Relief Required For A Rear Addition

Special Exception Standard

- Pursuant to Subtitle X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

(1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;

(2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and

(3) Subject in specific cases to special conditions specified in the Zoning Regulations.

- The Applicant has not sufficiently demonstrated that this Project will not tend to adversely affect the adjacent neighbor's property.

1828 15th Street Carriage House Fenestration is more limited and sensitive to neighbors' privacy



CARRIAGE HOUSE | REAR ELEVATION

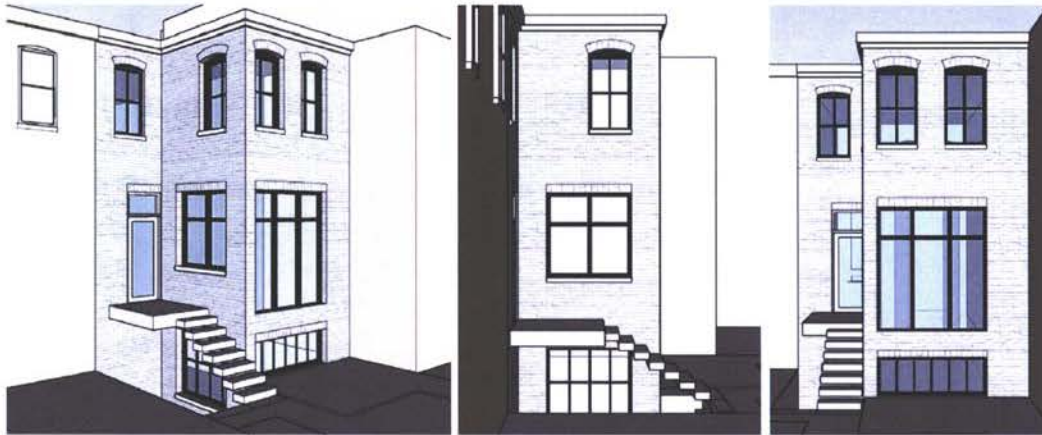
1828 15TH STREET NW

JULY 06, 2018

View will be blocked from Beplers' Bedroom



1828 15th Street Rear Fenestration and design is more limited and sensitive to neighbors' privacy



HOUSE ADDITION | PERSPECTIVES

1828 15TH STREET ADD

JULY 04, 2018

BZA Application #20144
1832 15th Street NW

Presented By:

Samantha Mazo, Esq.

Cozen O'Connor

