

July 1, 2024

Board of Zoning Adjustment  
441 4th Street, NW  
Suite 200S  
Washington, DC 20001

Re: Letter from Brian Kidwell and Brittany Lamb in Opposition to BZA Case No. 21098 (633 Rear E Street SE)

Dear Chairperson Hill and Members of the Board,

We live at 518 Archibald Walk SE, which is located directly to the northeast of 633 Rear E Street SE. Our home will be directly impacted by the applicant's proposed plans.

The applicant's prehearing statement is inconsistent, largely irrelevant, and often unsubstantiated, and it is designed to create the illusion that he is entitled to relief.<sup>1</sup> Yet once one takes a closer look at the arguments, it is clear that the applicant has not met any of the prongs of the area variance test. The applicant has failed to identify an extraordinary or exceptional condition affecting the property. The applicant cannot demonstrate any practical difficulties whatsoever if the zoning regulations were enforced. And the relief, if granted, would result in a substantial detriment to the public good and substantially impair the intent, purpose, and integrity of the zoning regulations.

While we would welcome the renovation of this property in a way that aligns with the zoning regulations, the applicant has not met the burden to justify a height variance here. We urge the Board of Zoning Adjustment to deny the application.

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<sup>1</sup> This is part and parcel of the applicant's approach to this process. After spending months attempting to create the impression that historic considerations prevent the applicant from developing the warehouse in line with the zoning regulations, the Office of Planning finally went to the source and consulted with the Historic Preservation Office ("HPO") on this point. The answer from HPO was clear: Historic considerations present no barrier to the applicant removing the roof or adding new windows to the structure. *See* BZA Ex. 44 (OP Supplement Report), at 4 ("In consultation with the Historic Preservation Office (HPO), the roof is not the most identifiable feature when keeping the structure's visual historic character, nor would new window cuts on their own degrade the historic character."). This indicates that the applicant's plan was never an attempt to address any historic considerations of the property; otherwise, he would have, at minimum, discussed the design with HPO himself. Now, with this pretext no longer available, the applicant scrambles to find another justification for his preferred design and has apparently settled on purported structural considerations. It is implausible that the applicant—a professional in this field—was previously unaware of these alleged structural issues. This is yet another pretext.

### There Is No Extraordinary or Exceptional Condition Affecting the Property

The applicant offers three possible extraordinary or exceptional conditions that affect this property: (1) the roof and height of the building, (2) the existing building configuration, and (3) purported historic considerations. None of these is sufficient. HPO has no objection to the removal of the roof, *see* BZA Ex. 44 (OP Supplemental Report), at 4, and the applicant's only support for the alleged complexity in removing the roof is a belated statement from a structural engineer. Yet a previous statement from the same engineer did not identify any structural issues with removing the roof. *See* BZA Ex. 22E (Statement of Shawn Kelley). Additionally, whether the roof can be removed is irrelevant, as the preexisting 5,500 square foot property could easily be developed to accommodate a multibedroom single family home. Second, the applicant claims that the presence of two beams in a 5,500 square foot property poses an issue to adding new openings to the structure. This is a red herring. There is no need whatsoever to add new openings. The building has many preexisting openings, most of which have been bricked over, that could easily be repurposed into bedroom windows without posing structural concerns. *See Exhibit A* (depicting preexisting openings). Many of these openings are enormous, so windows of all sizes could easily be accommodated. Finally, the applicant vaguely gestures at historic considerations, arguing that the building's utilitarian and industrial nature somehow poses a barrier. But this is one of the simplest building styles to match; it is not like the applicant is required to recreate a more intricate aesthetic, such as Victorian or Romanesque Revival. In sum, there is no extraordinary or exceptional condition affecting this property, let alone one that is unique to the property.<sup>2</sup>

### The Applicant Would Not Face Any Practical Difficulties If the Zoning Regulations Were Enforced

The applicant's argument for the second prong of the variance test reduces to an assertion that it would be practically difficult to add bedrooms to the first floor of the building. This is implausible. Indeed, the applicant's own prehearing statement makes clear that there are many options for configuring the first level of the warehouse to accommodate sufficient bedrooms. For example, as the applicant acknowledges, bedroom windows could be added to the north side of the building. *See* BZA Ex. 36 (Prehearing Statement), at 7. Here, the applicant banks on the assumption that the Board may not be familiar with the specific location of this warehouse. Though the applicant attempts to mislead the Board into thinking that this warehouse is located on "three relatively busy alleys," *id.* at 4, this is far from the truth. The warehouse's south and west sides face a quiet, low-traffic alley. While the alley to the west is primarily used by churchgoers to access Christ Church's parking lot and residents of the block, the alley to the south is not a through street and is only used by the residents of that portion of the block. The north side faces a quiet, pedestrian-only walkway, which is peaceful and scenic and would be fully appropriate for

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<sup>2</sup> The applicant is still unable to offer any plausible reason why the warehouse at 528 F Street Terrace SE, which is directly across the alley and is shorter and smaller, could be converted into a single-family residence without the need for zoning relief and this building cannot. The only explanation the applicant has provided is that bedroom windows could be accommodated on the south side of 528 F Street Terrace SE, which faces a private driveway. But these windows are mere feet from the public alley, *see* BZA Ex. 31 (Letter in Opposition from Neighbors), at Ex. J, so this location is not meaningfully different from the north side of the instant property, which faces a quiet, pedestrian-only walkway.

bedroom windows without posing any safety or privacy concerns beyond those that accompany typical city living.<sup>3</sup>

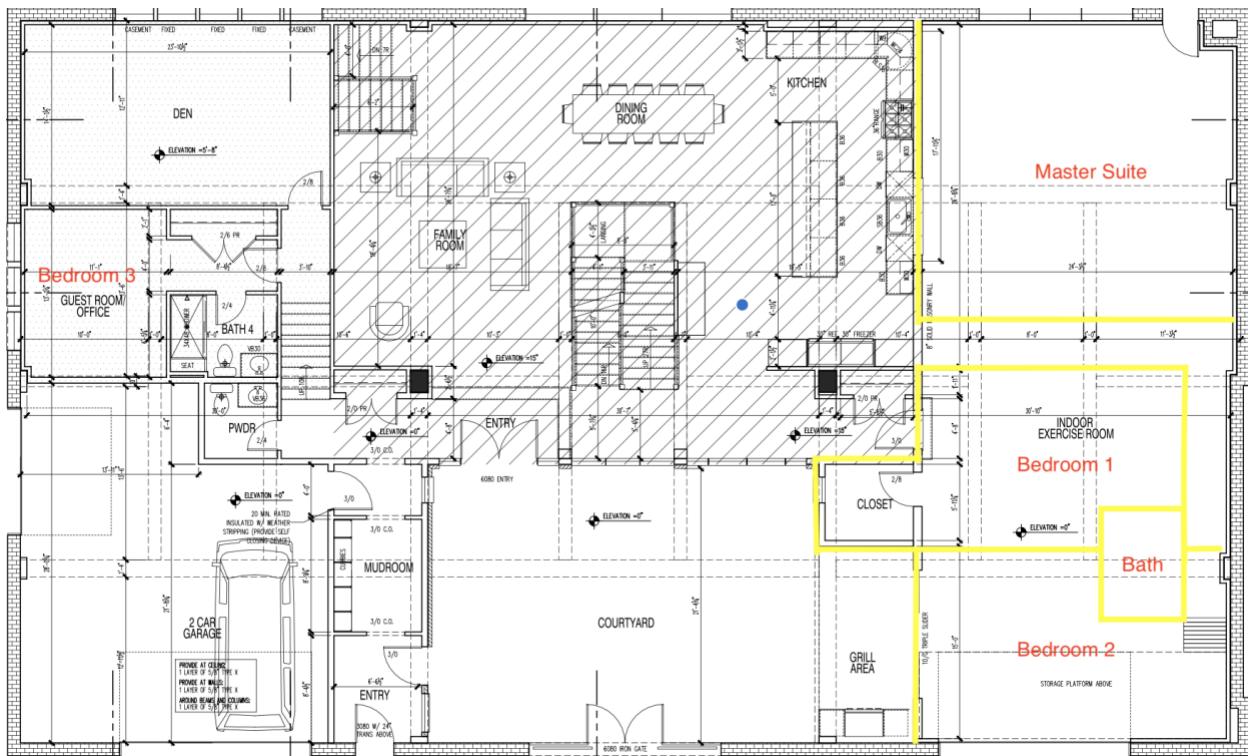


Similarly, the only reason the applicant provides for why bedrooms cannot be located along the 600 square foot inner courtyard already featured in the proposed plans is that future residents would need to go through a bedroom to access the courtyard. The ready solution to this would be taking a few square feet from one of the bedrooms to make a hallway from the living spaces to the courtyard. And even that may not be necessary. The 1,300 square foot indoor exercise room featured on the first level of the proposed plans could easily be subdivided into a primary suite and two substantial bedrooms (plus bathrooms) with the courtyard providing light and egress for at least two of the bedrooms and the bedroom in the northeast corner of the building getting light from the windows and egress from the door that are already planned for that corner of the building.<sup>4</sup> A hallway could be added along the east side of the building to provide access to the bedrooms:

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<sup>3</sup> Curtains and window bars could easily address any privacy or safety concerns. Though the applicant falsely asserts that window bars would not be code-compliant, BZA Ex. 36 (Prehearing Statement), at 7, the building code allows the use of bars on egress windows, as long as they are “releasable or removable from the inside without the use of a key, tool, special knowledge or force greater than that required for the normal operation of the escape and rescue opening.” 2015 IRC § R310.4.

<sup>4</sup> The building code requires every sleeping room to “have not less than one operable emergency escape and rescue opening” that “open[s] directly into a public way, or to a yard or court that opens to a public way.” 12B DCMR R310.1. The building code incorporates the definitions of the 2015 International Residential Code, which defines “court” to mean “[a] space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building.” 2015 IRC § R202. Accordingly, bedrooms with windows or doors along the courtyard, which opens onto the public alley under the proposed plans, would be code-compliant. The 2015 International Code also defines “emergency escape and rescue opening” to mean “[a]n operable exterior window, door or similar device that provides for a means of escape and access



Those three bedrooms, plus the bedroom already planned on the first level of the west side of the building, would get the applicant the three bedrooms plus primary suite he claims is needed, *see* BZA Ex. 36 (Prehearing Statement), at 6 (describing “3 small bedrooms and a primary suite” as “an appropriate number of bedrooms . . . for this size and space”), without changing any of the plans for exterior windows or needing to create code-compliant alley-facing bedroom windows. All exterior windows would be high enough so as not to present any privacy or security concerns, and the living spaces would also receive as much light from the courtyard and exterior windows as they currently receive under the proposed plans.<sup>5</sup>

Essentially, the issue is not that the applicant is unable to locate bedrooms on the first level; the issue is that he has no interest in doing so. The applicant faces no practical difficulties here.

**Granting the Variance Would Result in Substantial Detriment to the Public Good and Impair the Intent, Purpose, and Integrity of the Zone Regulations**

As the Office of Planning has consistently recognized, *see* BZA Ex. 24 (OP Report), at 4–5; BZA Ex. 44 (OP Supplemental Report), at 5–6, the proposed building would subvert the intent,

for rescue in the event of an emergency,” *id.*, so the exterior door currently contemplated on the building’s north side would qualify as well.

<sup>5</sup> It is also telling that the applicant is willing to demolish a 600-square foot portion of the roof, despite the alleged cost and complexity of doing so, to create an inner courtyard—something that is not required by the zoning regulations—rather than demolishing the same 600-square foot portion of the roof to create a limited 20 foot tall second level for bedrooms. The applicant would not even need to give up private outdoor space if he took this approach; he could take advantage of the roof’s significant size to have a rooftop terrace that is thousands of square feet.

purpose, and integrity of the zoning regulations. The intent and purpose of the zoning regulations is to ensure that alley dwellings are secondary in scale to street-facing properties. The applicant’s own filings, which present a cherry-picked view of surrounding building heights, *see* BZA Ex. 36B (Height Model), at 1, make clear that the proposed building would overwhelm not only the surrounding alley dwellings but also most of the street-facing residences as well. The other alley residences are either much shorter than the proposed building or significantly smaller in scale (or both). The only alley residences that are taller than the proposed building are smaller in scale and have gabled roofs, *see id.* at 20, so their height is less obtrusive. Though some of the street-facing properties are slightly taller than the proposed building, the vast majority are not and, on top of that, have a much smaller footprint. While the applicant claims that “[m]ost of the properties are two stories, and some properties in the alley are well-over,” BZA Ex. 36 (Prehearing Statement), at 5, this is false. None of the residences in the alley are over two stories, and several—the ones with the biggest footprints—are a single story.

It is also worth noting that the applicant has *reduced* the setback on the west side of the building in his updated plans, *see* BZA Ex. 37 (Updated Architectural Plans and Elevations), so that it is now a mere five feet. As a result, the second story of the proposed building will be visible not only from within the alley, but it will likely be visible from E Street and G Street as well. The second story will also crowd against the historic Christ Church, which is directly across the alley, and make the already narrow alley feel even narrower.

While the applicant has filed updated shade studies that purport to show a lack of impact on surrounding residences, these shade studies either are not to scale or are mislabeled. In the images that purport to depict the “existing” shade, the warehouse roof is not depicted with a slope. There are two possible explanations. The first possibility is that the applicant used 17.5 feet for the entire roof height and ignored the slope to 14.5 feet on the north side. If this is the case, the images labeled “existing” would depict more shading than is actually present. Another possibility is that these images actually depict a by-right project. Either way, we are unable to determine the actual impact of the proposed plans on our home, and we note that this is consistent with the applicant’s practice of providing the Board with misleading selections of shade studies to suit his preferred narrative. *See* BZA Ex. 31 (Letter in Opposition from Neighbors), at 2 & n.4.

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Ultimately, the proposed design is not a good-faith effort to grapple with zoning restrictions. Instead, the proposed design is simply the design that the applicant wants. The applicant does not want a regulation-compliant 5,500 square foot four-bedroom single-family residence with inner courtyard (even though this would be well above the average house size). He wants a 10,000 square foot five-bedroom single-family residence with a 1,300 square foot exercise room, more than one home office, and two sizable rooftop terraces.

The applicant easily could develop the property into an expansive single-family residence in a way that is fully in line with the zoning regulations. Indeed, the applicant and his representatives have told us on multiple occasions that they intend to build a by-right project if the height variance is denied. For example, in a March 25 email, the applicant’s representative informed us that a by-right project was “not [their] desired intention,” but that it “is the route [they] will be required to take if [their] proposed design is denied.” *See Exhibit B* (March 25, 2024

Email from Ryan Amons), at 2. Though the applicant's attorneys informed ANC 6B that a by-right project would not be available to them in order to get ANC 6B's support for this project, the applicant later told us during a phone call that this was false and threatened to pursue a by-right project, which he said would be worse for us, if the BZA denies the height variance.

If the Board decides to grant the variance, we request that it be on the condition that the second floor be reduced only to the size needed to accommodate a reasonably sized primary suite and two small bedrooms with a shared bathroom, with the second floor located at the center of the building to minimize the impact on surrounding residences. The applicant has not demonstrated why the second level must include a sizable primary suite (approximately 640 square feet—nearly the size of the surrounding alley dwellings), three additional bedrooms, three bathrooms, four walk-in closets, a laundry room, and an office. The Board should take the applicant at his word that all that is needed is “3 small bedrooms and a primary suite.” BZA Ex. 36 (Prehearing Statement), at 6. Given that the plans already provide for one bedroom on the first level, the second floor should be limited to a more modest primary suite and two additional small bedrooms with a shared bathroom. This could be accomplished in approximately 600 square feet, rather than the 2,154 square feet the applicant is currently demanding for the second floor. The laundry and office could be relocated to the first level or the basement.

In sum, the proposed design is not a necessity; it is a preference. A height variance is not warranted here. We respectfully ask that the Board deny the requested height variance.

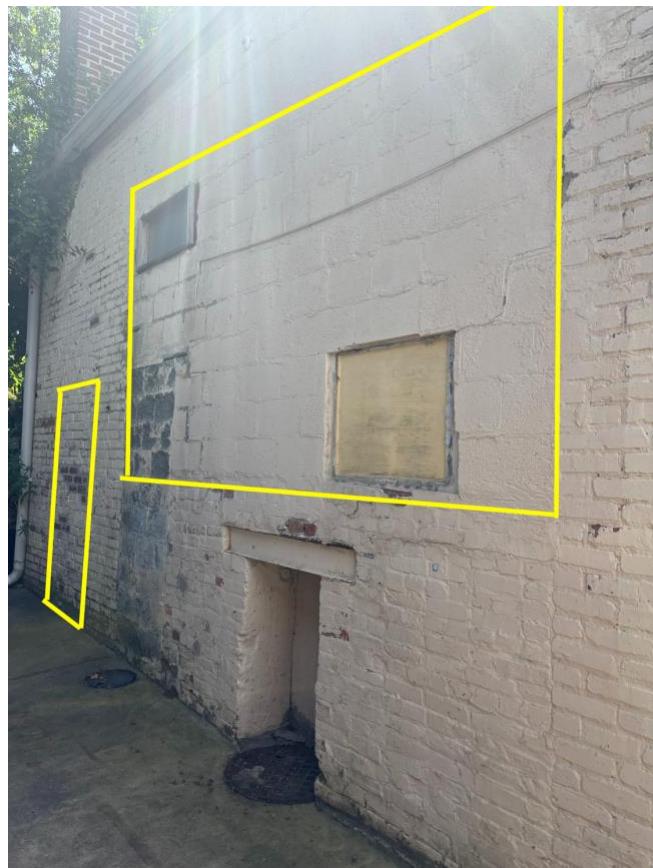
Sincerely,

Brian Kidwell, 518 Archibald Walk SE  
Brittany Lamb, 518 Archibald Walk SE

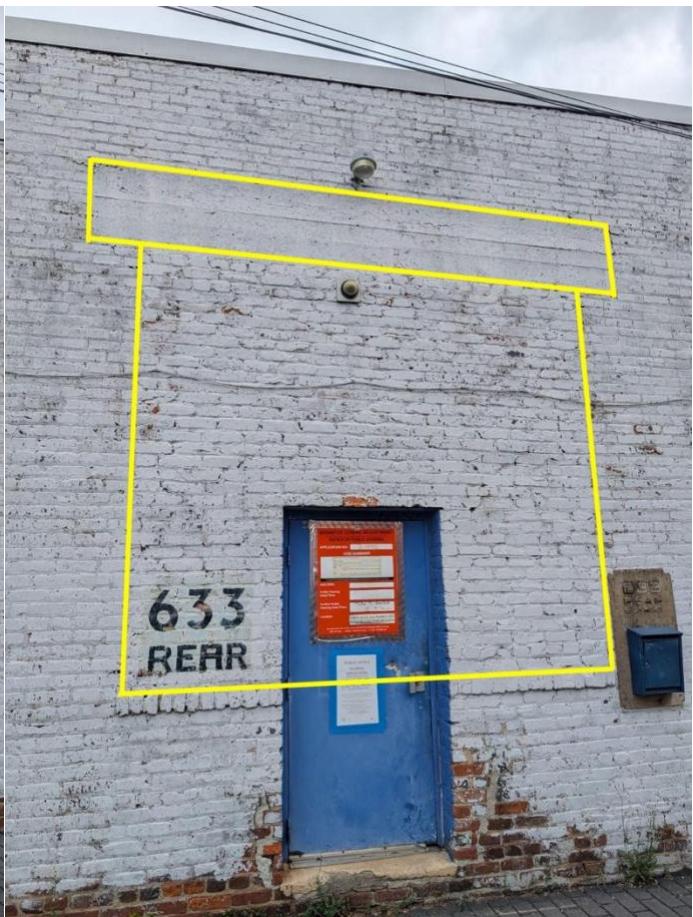
## Exhibit A: Existing Openings on 633 Rear E Street SE

North Side





West Side





Brittany Lamb <[REDACTED]>

## Re: 518 Archibald Walk SE - Brittany Lamb

Ryan Amons <[REDACTED]> Tue, Apr 2, 2024 at 7:16 PM  
To: Brittany Lamb <[REDACTED]>  
Cc: "D'Andrea, Francis (SMD 6B04)" <[REDACTED]>, Jonathan Schmidt <[REDACTED]>, Brian Kidwell <[REDACTED]>, David Sobelsohn <[REDACTED]>, Alexandra Wilson <[REDACTED]>

Hey Brittany,

I hope you're doing well! I wanted to follow up on our conversation about the impact of our proposed second-floor addition on sunlight and shade. I've attached several shade studies for your review, which provide detailed insights into how the three proposed scenarios (existing/proposed/by right) will affect sunlight throughout the year. The studies show Spring Equinox, Summer Solstice, Fall Equinox, and Winter Solstice from Noon to sunset.

Based on these studies, it's clear that there will be no additional shading from the spring equinox through the winter solstice when modeling the proposed. Even in December, when there is slightly more shading, it only occurs in the late afternoon closer to sunset.

Additionally, I've included solar impact studies to address any concerns about future solar panels. These studies confirm that our proposed addition will not impact the installation or performance of solar panels that neighbors may choose to install.

I hope this information alleviates any concerns you may have had. Please feel free to reach out if you have any questions or would like to discuss further. We look forward to presenting these findings at Thursday's meeting.

On Thu, Mar 28, 2024 at 1:01 PM Brittany Lamb <[REDACTED]> wrote:

Thanks, Ryan! That additional context is helpful, but it would be good to get more insight into whether there will be an impact beyond "high" seasons.

I understand your point about the by-right project, but it does seem like somewhat of a false dichotomy between that option and your proposed design. I know the presentation at the last ANC meeting mentioned that the roof can't be removed due to its historic nature and that's why it's necessary to build the second story on top of the preexisting roof. But if you're now saying that you're able to do a by-right project, that makes it seem like that restriction isn't actually a concern. I also reviewed your BZA statement and I don't see anything in it about HPO reaching a determination on that point/citations to relevant authority. Perhaps I'm missing something, but the fact that your HPRB application doesn't seek an exception to remove a large portion of the roof to accommodate the courtyard also suggests that there isn't an HPO restriction on the roof. I think the presentation also mentioned the cost of removing the roof, but that cost would be incurred as part of a by-right project too. If there isn't an HPO issue with removing the roof, then going up to the full 28 feet wouldn't be necessary, and anything between that height and the current height would then be feasible. If there is an HPO issue with removing the roof, then I would think a by-right project wouldn't be possible either.

If the choice truly was between the by-right project and the proposed design (which essentially doubles the building height on our side of the alley), it may be that the by-right project will have less overall impact from our perspective, though it is admittedly hard to visualize. I imagine there is much middle ground between those two options though.

We'll review the revised shade study when it's available and let you know if we have any questions. Thanks again.

-Brittany

On Mon, Mar 25, 2024 at 1:27 PM Ryan Amons <[REDACTED]> wrote:

Good Afternoon Brittany,  
Hope you had a great weekend.

Yes, this initial shade study was put together by a member of our design team. He is outlining the three shading scenarios which include the proposed, the existing, and the by right project. As the study illustrates, the proposed setback addition provides no increased afternoon shading in either high season. As the afternoon sun sets to its lowest in the winter, any additional shading will not occur until around 4pm, at which time the sun is setting.

It's important to understand what we are attempting to illustrate here with these shade studies, and that is the 'by right' project is exponentially more disruptive and impactful than what we are proposing. To clarify, the by right project, which we could construct without community review or comment, would have us increasing our rear roof line 6' with no required set back. While this is not our desired intention, it is important to note, as this is the route we will be required to take if our proposed design is denied. With that said, we are currently working on an additional shade study that will outline each scenario and its relative impact. Will forward once received.

Please know that we are committed to a design that minimizes any impact on your property and enhances the alley environment for everyone. We're more than happy to continue discussing the shade study with you and address any additional questions or concerns you may have. Your input is valuable to us, and we want to ensure that we address any concerns to the best of our ability.

On Thu, Mar 21, 2024 at 9:26AM Brittany Lamb <████████> wrote:  
Hi Ryan,

Thanks again for sending this along! My partner Brian (copied here) and I have a couple quick preliminary questions whenever you have the chance:

1. Who put together these studies? Judging by the handwriting, it seems like it may have been your architect. Is that correct?
2. In your email, you mention that there will be "no additional impact on [our] yard during high summer, spring, or fall." Does the reference to *high* summer indicate that there will be an impact during at least portions of the summer? And I assume the omission of winter indicates there will be an impact during the winter?

And just to clarify, I know that the discussion during the ANC meeting kind of devolved into a focus on our front patio, but that isn't our only concern. We're also worried about the impact on our two west-facing upstairs bedroom windows. We have a small house, and these are the only windows that get consistently good sunlight and have open views. I've included a photo in case it's helpful. I know others in the neighborhood are also concerned about the impact on their light, ability to get solar, etc., though they weren't able to attend this past meeting.

Thanks again; we really do appreciate your quick action on and attention to this.

-Brittany

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On Mon, Mar 18, 2024 at 5:16PM Brittany Lamb <████████> wrote:  
Thanks so much, Ryan! We really appreciate it. We'll review and let you know if we have any questions.

-Brittany

On Mon, Mar 18, 2024 at 10:25AM Ryan Amons <████████> wrote:  
Thank you Frank!

Good Morning Brittany,

I hope you're doing well and had a great weekend. I wanted to touch base regarding your concerns about our second-floor addition and its impact on your yard.

We've conducted a shade study, and I'm happy to share that our proposed project won't bring any additional shading to your rear yard. In fact, it's interesting to note that a by-right project with a raised roofline and no required setback would actually cause more shading.

I understand that the existing structure already has some impact on your yard, but rest assured, our proposed addition is set back roughly 14' from our shared property corner. This means there will be no additional impact on your yard during high summer, spring, or fall.

We're committed to being good neighbors and want to make sure your concerns are addressed. Please feel

free to reach out if you have any more questions or if there's anything else we can do to alleviate your concerns. Happy to go over the shade study with you, as I know it may need some translating.

Sincerely,

Ryan

On Sun, Mar 17, 2024 at 3:16 PM D'Andrea, Francis (SMD 6B04) <[REDACTED]> wrote:  
Ryan,

I will just copy Brittany on this email. Brittany, I will let you and Ryan take it from here, but if you need anything, happy to jump in.

Francis "Frank" D'Andrea

Commissioner, ANC 6B04

Phone/TXT: [REDACTED]

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**From:** Ryan Amons [REDACTED]

**Sent:** Thursday, March 14, 2024 4:22 PM

**To:** D'Andrea, Francis (SMD 6B04) [REDACTED]

**Subject:** 518 Archibald Walk SE - Brittany Lamb

**CAUTION:** This email originated from outside of the DC Government. Do not click on links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to [phishing@dc.gov](mailto:phishing@dc.gov) for additional analysis by OCTO Security Operations Center (SOC).

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Hey Frank,

Sorry to bother you, but I am hoping to get in touch with Brittany Lamb, owner of [518 Archibald Walk SE](#), to discuss a recent shade study we had performed for 633 Rear E Street.

Did she happen to provide an email to the P&Z committee after her comments last week? If so, are you permitted to share that with me?

Appreciate any info you can provide.

Thanks!

--  
**Ryan Amons** / VP Operations / Schmidt Development, LLC.

Cell: [REDACTED]

PO Box 15844 / Washington, DC 20003

[REDACTED] / [www.schmidtdevelopment.com](http://www.schmidtdevelopment.com)

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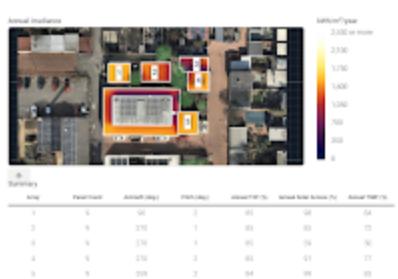
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### 3 attachments



**Neighborhood Shade Report Current.png**  
610K



**Neighborhood Shade Report Post.png**  
627K

**Shadow Studies Side by Side.pdf**  
5086K