

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 21205 of Andria Matrone and Brian Miller, pursuant to 11 DCMR Subtitle X, Chapter 9, for special exceptions under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 207.1 and the lot occupancy requirements of Subtitle D § 210.1 to allow a rear deck addition to an existing two-story semi-detached principal dwelling in the R-2 Zone at 3730 Windom Place, N.W. (Square 1892, Lot 36).

HEARING DATE: December 11, 2024

DECISION DATE: December 11, 2024

DECISION AND ORDER

This self-certified application was filed on September 3, 2024 on behalf of Andria Matrone and Brian Miller (together, the “Applicants”), the owners of the property that is the subject of the application. Following a public hearing, the Board voted to approve the application subject to one condition.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. In accordance with Subtitle Y §§ 400.4 and 402.1, the Office of Zoning provided notice of the application and public meeting, by letters dated September 20, 2024, to the Applicants, the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the Department of Buildings, Advisory Neighborhood Commission (“ANC”) 3E, the ANC in which the subject property is located, and Single Member District 3E05, the Office of Advisory Neighborhood Commissions, the Councilmember for Ward 3 as well as the Chairman and the four at-large members of the D.C. Council, and the owners of all property within 200 feet of the subject property¹. Notice was published in the *District of Columbia Register* on October 4, 2024 (71 DCR 12104) as well as through the calendar on the Office of Zoning website.

¹ At the Applicants’ request, the application was initially scheduled for decision at a public meeting on November 20, 2024 in accordance with the procedure for expedited review (see Subtitle Y § 407). On November 8, 2024 the Office of Zoning removed the application from the expedited review calendar and scheduled a public hearing for December 11, 2024 after a request for party status in opposition to the application was submitted (Exhibits 25, 25A) (see Subtitle Y § 401.7(b)).

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Parties. Pursuant to Subtitle Y § 403.5, the Applicants and ANC 3E were automatically parties in this proceeding. At a public meeting on November 20, 2024, the Board granted a request for party status in opposition to the application submitted by Sarita Frattaroli, the owner of a property abutting the Applicants' lot. (Exhibit 25.)

Applicants' Case. The Applicants presented evidence and testimony, including from Michelle Vassallo, the project architect, in support of their request for zoning relief needed to allow a rear deck addition at the subject property.

OP Report. By memorandum dated November 27, 2024, the Office of Planning recommended approval of the application. (Exhibit 32.)

ANC Report. At a public meeting on November 6, 2024, with a quorum present, ANC 3E adopted a resolution in support of the application. (Exhibit 31.)

Party in opposition. The owner of a property abutting the Applicants' lot argued that the planned rear deck addition would adversely affect the light, air, and privacy available to the abutting dwelling and rear yard. (Exhibit 25.)

Persons in support. The Board received letters in support of the application from residents living near the subject property, who stated no objection to the Applicants' proposal.

FINDINGS OF FACT

1. The property that is the subject of this application is an interior lot on the south side of Windom Place near its intersection with 38th Street, with the address 3730 Windom Place, N.W. (Square 1892, Lot 36).
2. The subject property is rectangular, 33 feet wide and approximately 98.6 feet deep. The lot area is 3,252 square feet. (Exhibits 10, 11.)
3. The subject property is improved with a two-story semi-detached building used as a principal dwelling. The existing building is 25 feet wide, providing a side yard of eight feet on the east side as well as a rear yard of approximately 28 feet. The existing lot occupancy is 44 percent, including an existing rear deck addition that the Applicants plan to remove, or 40.1 percent considering solely the existing dwelling. (Exhibits 10, 27A, 39A.)
4. The existing rear deck addition is approximately five feet deep and extends approximately halfway across the width of the building, accessible from a rear door on the first floor. The existing deck provides a stair to the rear yard on the eastern portion of the subject property and is located above a driveway and door to a garage in the lowest level of the building on the western portion.
5. The Applicants proposed to replace the existing deck with a new deck extending 13 feet deep and 25 feet wide, accessible from a door on the first floor of the dwelling.

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6. The floor of the new deck will be approximately eight feet above grade, accommodating vehicle access to the garage.
7. A stair, approximately four feet wide, will be located along the west side lot line to provide access from the new deck to the rear yard. (Exhibit 27A.)
8. A railing will be installed along the outer edges of the deck. The railing will utilize a horizontal rail supported by vertical uprights separated by an opening between each. (Exhibit 27A.)
9. The Applicants will install a lattice privacy screen along the western edge of the deck addition between the rear wall of the dwelling and the stairs to grade. (Exhibits 27A, 35A.)
10. The new deck will result in a rear yard of 15.14 feet where a minimum of 20 feet is required. (Subtitle D § 207.1.)
11. The new deck will increase the lot occupancy at the subject property to 49.5 percent where a maximum of 40 percent is permitted as a matter of right. (Subtitle D § 210.1.)
12. The subject property abuts a public alley, 16 feet wide, along the rear (south) lot line.
13. A solid wood fence, approximately six feet high, extends along each of the side lot lines of the subject property. (Exhibit 3.)
14. The property abutting the subject property to the east contains a semi-detached principal dwelling similar to the Applicants' dwelling. The abutting property provides a side yard along the side lot line in common with the Applicants' lot.
15. The property abutting the subject property to the west contains a two-story semi-detached dwelling that is attached to the Applicants' dwelling.
16. The rear wall of the Applicants' existing dwelling extends beyond the rear wall of the dwelling on the abutting lot to the west, as well as beyond a rear deck addition to the abutting dwelling. (Exhibit 3.)
17. A rear porch addition is under construction on the first-floor level of the dwelling abutting the subject property to the west, replacing the deck. The rear wall of the new porch addition will extend beyond the existing rear wall of the Applicants' dwelling. (Exhibit 20A.)
18. The neighborhood surrounding the subject property is low-density residential in character. Adjacent properties are improved primarily with detached or semi-detached principal dwellings. (Exhibit 32.)
19. The subject property is located in a Residential House (R) zone, R-2.

20. The Residential House zones are residential zones, designed to provide for stable, low- to moderate-density residential areas suitable for family life and supporting uses. (Subtitle D § 101.1.) The provisions of the R zones are intended to: (a) provide for the orderly development and use of land and structures in areas predominately characterized by low- to moderate-density residential development; (b) recognize and reinforce the importance of neighborhood character, walkable neighborhoods, housing affordability, aging in place, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city; (c) allow for limited compatible accessory and non-residential uses; (d) allow for the matter-of-right development of existing lots of record; (e) establish minimum lot area and lot width for the subdivision and creation of new lots of record; and (f) discourage multiple dwelling unit development. (Subtitle D § 101.2)
21. The purpose of the R-2 zone is to provide for areas with semi-detached houses and avoid denser types of residential development. (Subtitle D § 101.6) The R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached houses. (Subtitle D § 101.7)

CONCLUSIONS OF LAW AND OPINION

The Applicants seek special exceptions under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 207.1 and from the lot occupancy requirements of Subtitle D § 210.1 to allow a one-story rear deck addition to an existing two-story semi-detached principal dwelling the R-2 zone at 3730 Windom Place, N.W. (Square 1892, Lot 36). The Board is authorized under § 8 of the Zoning Act (D.C. Official Code § 6-641.07(g)(2)) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions. (See Subtitle X § 901.2.)

The Applicants proposed a one-story rear deck addition to an existing semi-detached principal dwelling that will not meet development standards applicable in the R-2 zone with respect to lot occupancy or rear yard. In accordance with Subtitle D § 5201.1(a) and (b), the Board is authorized to grant relief as a special exception from specific development standards, including rear yard and lot occupancy (up to 50 percent) for an addition to a principal residential building with one principal dwelling unit on a non-alley lot. An application for a special exception under Subtitle D § 5201 must demonstrate that the proposed addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property; specifically, (a) the light and air available to neighboring properties must not be unduly affected, (b) the privacy and use of enjoyment of neighboring properties must not be unduly compromised, and (c) the proposed addition, together with the original building, as viewed from the street, alley, or other public way, must not substantially visually intrude on the character, scale, and pattern of houses along the street or alley frontage. (Subtitle D § 5201.4.) Based on the findings of fact, and having given great

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weight to the recommendation of the Office of Planning and to the report of ANC 3E, the Board concludes that the application satisfies the requirements for approval of the requested zoning relief.

The Board concludes that the Applicants' proposed rear deck addition will not adversely affect the light and air available to neighboring properties. The Applicants submitted a shadow study (Exhibit 27A) demonstrating that the planned deck will not affect available light and air because the first-floor deck will not be enclosed either above or below the deck floor. The Board agrees with the Applicants and OP that the planned deck addition will not significantly affect light or air available to nearby properties. Given the unenclosed nature of the deck and the design of the planned railing and privacy screen, the planned deck will not interfere with light or air to nearby properties. The dwelling on the abutting lot to the east is separated from the Applicants' planned deck by the side yards on both lots, and properties to the south are separated by a rear yard on each lot as well as the public alley. The Board was not persuaded by the party in opposition that the deck would adversely affect the light and air available to the abutting property to the west. The party in opposition overstated the distance of the Applicants' planned deck above grade and asserted that the deck addition would have side enclosures and a railing that would interfere with light and air. The Applicants' deck will not be enclosed and will utilize an open design intended not to obstruct light and air.

The Board concludes that approval of the application will not unduly compromise the privacy and use of enjoyment of neighboring properties. The deck will be located at a distance from dwellings to the east and south, and views from the deck will be obscured by privacy fences and existing vegetation. The Board was not persuaded by the party in opposition that the planned deck will provide direct sight lines into the rear of the abutting dwelling, porch, and rear yard, given the expected configuration of the dwelling on the abutting lot, where a rear addition is currently under construction. The Board did not agree with the party in opposition that the absence of a court along the west side lot line of the subject property, so that the planned deck will be closer to the side lot line, will unduly compromise privacy. As the Applicants noted, the presence of a stair on the west side of the deck will likely concentrate recreational activity on the east side, away from the dwelling attached on the west side. Similarly, the Board did not agree with the party in opposition that the Applicants' planned privacy screen will create a "boxed-in feel" because the Applicants will utilize a trellis design with openings sufficient to allow the transmission of some light and air.

The proposed addition, along with the original building, when viewed from the street, alley, or other public way will not substantially visually intrude on the character, scale, or pattern of houses along the street or alley frontage. The rear deck will not be visible from the street or other public way except for the public alley at the rear of the subject property. The Board credits the testimony of the Office of Planning that "[s]everal homes along the alleyway have first-story rear decks" and that the Applicants' project would "not have a significant impact on the [visual] character of houses along the alleyway." (Exhibit 32.) The Applicant submitted photographs depicting rear deck additions on other dwellings with frontage along the alley abutting the Applicants' lot (see Exhibit 3).

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Subtitle X § 901.2. The Board concludes that approval of the application will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, as is required for approval of the application under Subtitle X § 901.2. The Applicants' rear deck addition will maintain the present use of the subject property as a principal dwelling in a semi-detached building, consistent with its R-2 zoning designation. Approval of the requested special exception will be consistent with the intent of the Residential House zones to provide for the orderly development and use of land and structures in areas predominately characterized by low- to moderate-density residential development and to recognize and reinforce the importance of neighborhood character, walkable neighborhoods, preservation of housing stock, improvements to the overall environment, and low- and moderate-density housing to the overall housing mix and health of the city.

Approval of the application will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, as is also required for approval of the application under Subtitle X § 901.2. As discussed above, the proposed deck addition will not adversely affect the light, air, or privacy available to nearby properties. The deck will not have enclosing walls but will contain a trellis along the west side lot line to avoid potential adverse privacy impacts. The Board was not persuaded by the party in opposition that the deck would be unusually large, noting that lot occupancy up to 50 percent may be permitted by special exception and that the Applicants' dwelling will continue to meet other applicable development standards aside from a rear yard that will be approximately five feet less than the minimum required.

Great weight. The Board is required to give "great weight" to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04.) For the reasons discussed above, the Board agrees with OP's recommendation that, in this case, the application should be approved.

The Board is also required to give "great weight" to the issues and concerns raised by the affected ANC. (D.C. Official Code § 1-309.10(d)(3)(A)). In this case, ANC 3E passed a resolution in support of the application without stating any issues or concerns about the requested zoning relief. The resolution stated that "[a]fter spending considerable time hearing and assessing the neighbor's objections and the applicant's response and working with the parties to seek compromise, ... we believe that the objections are not supported to the extent they warrant opposition to the application. (Exhibit 31). For the reasons discussed above, the Board agrees with the ANC that the application should be approved.

Based on the findings of fact and conclusions of law, the Board concludes that the Applicants have satisfied the burden of proof concerning the request for special exceptions under Subtitle D § 5201 from the rear yard requirements of Subtitle D § 207.1 and the lot occupancy requirements of Subtitle D § 210.1 to allow a rear deck addition to an existing two-story semi-detached principal dwelling in the R-2 zone at 3730 Windom Place, N.W. (Square 1892, Lot 36). Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 27A and subject to the following **CONDITION**:

1. The Applicants shall provide a lattice privacy screen, at least six feet in height, along the western edge of the rear deck addition as shown on the plans (page 14 of Exhibit 27A).

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VOTE: 5-0-0 (Frederick L. Hill, Lorna L. John, Carl H. Blake, Chrishaun S. Smith, and Anthony J. Hood to APPROVE)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: August 6, 2025

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITION IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITION IN THIS ORDER, IN

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WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.