

June 24, 2024

Office of Zoning
441 4th Street, NW
Ste. 200S
Washington, DC 20001

Re: 5001 4th Street, NW DC 20011

Burden of Proof Statement

Description of Project

The applicant is proposing to construct a 16'x20' open deck on the rear of their property which will be constructed at 8'-6" above grade over the existing parking pad. A portion of the footprint of the deck size listed includes a landing and stairs from the deck to grade. The parking area underneath will remain unenclosed.

Description of Required Zoning Relief

Number	Type of Relief	Zoning Sections	Reason [or Basis]
1	Special Exception	D – 207.1 D – 5201.1(b) C – 901.2	New rear deck encroaches in the required rear yard.
2	Area Variance	D – 210.1 X – 1000.1	New rear deck exceeds the maximum lot occupancy in R-3 zone.

Special Exception / Variance Criteria

Relief #1 – Special Exception (minimum rear yard)

The first relief requested according to the referral memorandum is to section 207.1 which requires a rear yard of 20 feet. The proposed open deck would extend to approximately 9 feet from the property line which is 11 feet short of that which is required.

The rear yard is small already. There is an existing driveway that exists in the rear yard that allows access from the existing alley in the rear of the property. There is also an existing landing on the middle floor above the existing driveway with steps that lead to grade which will be replaced by the proposed deck.

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CASE NO.21222
EXHIBIT NO.19

The proposed deck is only 16' in projection which is modest in nature. As you can see from the computations provided by the zoning reviewer, the existing house is 25' to the rear lot line now. This would then mean that the only deck that could be constructed on the rear of the house without requiring this special exception would render that deck 5' in depth. Clearly that would be unusable.

The applicant here simply wishes to utilize their rear amenity space as nearly every other property is able to enjoy. Furthermore, the applicant has chosen to maximize the use of their land area by proposing to build the deck over top of their existing driveway...which essentially provides double the use of the same square footage of the lot.

Addressing §5201.4 for this Special Exception

Granting this open deck over an existing parking pad will not affect the light and air available to neighboring properties (**§5201.4(a)**). Leaving the parking area open actually demonstrates this. Further, some of the neighboring properties in have more obtrusive *enclosed* garages even beyond. The privacy of use and enjoyment of neighboring properties will not be unduly compromised (**§5201.4(b)**). The houses across the alley are positioned in the perpendicular manner to this subject property and thus it is the side of their house that would even face the proposed deck.

The proposed structure, together with the original building, as viewed from the alley, will not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage (**§5201.4(c)**). Replacing the existing landing with an open deck will be a minor change. The visual appearance will be fairly similar to what it is today, and much more in harmony with the surrounding properties. To verify all of the above, please review the plans submitted which confirm the aforementioned statements (**§5201.4(d)**)

Addressing §901.2 for this Special Exception

Decks on the rear of residential dwellings may be the most commonly added improvements. The unique circumstances found on this property would deny the owner the ability to enjoy the same amenity that nearly every other property owner could enjoy. Approving this Special Exception would actually therefore render the property to be *more* in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps (**§901.2(a)**). But certainly in no way would it be in opposition to them.

As stated earlier, the deck is elevated and over an existing parking area. This proposed deck would not adversely affect the use of neighboring property in accordance with the Zoning Regulation and Zoning Maps in any way (**§901.2(b)**). It actually would have no affect on neighboring property at all, let alone negative affects. While no further special conditions are anticipated with the approval of this Special Exception, the applicant fully intends to meet any such conditions should they be required (**§901.2(c)**).

Relief #2 – Area Variance (lot occupancy)

The second type of relief sought is the area variance required due to exceeding the maximum allowable lot coverage. The proposed 16'x20' open deck is actually only 270 square feet because a portion of that footprint is actually the stairs. The zoning reviewer provided a detailed sheet titled "Notes And Computations" which shows that the *existing* conditions reflect a lot coverage amount that already exceeds the maximum. Section 210.1 offers that the maximum allowed lot coverage shall not exceed

60%. The subject property contains 1,700 square feet of land meaning that the maximum allowed lot coverage is 1,020 square feet. In fact, this sheet also shows that the minimum lot area in this zone should be 2,000 square feet which shows that the lot is undersized to begin with.

Existing conditions show a building area of 1108 square feet which computes to 65%. The proposed 270 square feet additional would create 1,378 square feet of occupancy, or 81.06%. The notes and computations sheet actually says the proposed lot occupancy would grow by 320 square feet but this is a mistake. The reviewer seemingly simply took the 16'x20' deck size and did that math. But as you can see from the construction plans, the deck is truly only 16'x15' and then there is a 5'x5' landing with steps...which is 270 square feet.

Addressing §1002 for this variance

Besides the shallowness of the lot creating a very small rear yard, the exceptional attribute is actually the topography. The subject dwelling main level is an entire floor above the level of the rear alley. In other words, the basement area is completely aboveground in the rear. This elevation change renders over half of the small rear yard useless as it drops down to the alley level which is why it is almost entirely parking area.

Furthermore, as you can see in the supplied photographs, the entire 16'x20' area the deck is proposed to occupy is above the existing parking pad. One could argue that this area of paving is already "lot occupancy" as this is where vehicles occupy. The proposed open deck is going above this area in order to enjoy this majority area of the rear yard that is currently unusable as an amenity. The houses directly across the alley do not have this issue as they are turned in a different configuration away from the alley. Thus, denying this relief request would create both a peculiar and practical difficulty, *and* an exceptional and undue hardship on this subject property that the neighbors across the alley do not have (**§1002.1**).

As an additional note to address zoning regulations and standards, please be advised that this proposal in no way is a detriment to the public good. As this is a modest open deck on a residential property, the public good is in fact not affected at all. The lot is private and not open to the public, and the extent of the project does not extend outside of the privately held property.

Furthermore, the project in no way impairs the intent, purpose, or integrity of the zoning regulations. While the proposal cannot meet the zoning regulations in their model form (hence the need for BZA approval), the structure itself, an open deck, is one of the most pervasive improvements made upon residential structures. Its commonness is actually one of the practical difficulties and undue hardships the applicant is facing; that denial of the adjustment precludes them from enjoying an improvement that so many others enjoy. The minor request does not unravel the intent of the zoning code or deface its integrity; it simply acknowledges that unique circumstances sometimes exist that necessitate the adjustment of rigid compliance for the common sense good.