

**CAPITOL  
IMPROVEMENTS LLC**

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## **BURDEN OF PROOF STATEMENT**

**Property Address:** 1130 4th Street N.E., Washington, DC 20002

**Square/Lot:** 0773 - 0072

**Zoning District:** RF-1

**Applicant:** Daniela Serrano Pavon

**BZA Case Number:** 21346

**Agent:** Florencia Jewell | Capitol Improvements LLC

**Zoning Relief Requested:**

- Area Variance (E § 210.1, X § 1001.2).
- Special Exception (E § 5201.1(b), E § 207.1, X § 901.2).

### **I. Introduction**

We respectfully submit this Burden of Proof Statement in support of the application for zoning relief for the property located at 1130 4th Street N.E., Washington, DC 20002, in behalf of the homeowner Daniela Pavon Serrano, under the provisions of Subtitle E § 210.1, and Subtitle X § 1001.2 for Area Variance, and Subtitle E § 5201.1(b), E § 207.1, X § 901.2 for Special Exception. This request is necessary due to the property's non-conforming status within the RF1 zoning district, where the existing conditions are as follows: 10 feet of rear yard and a lot size of 987.30 square feet, which provides 84% lot occupancy. Due to this, the addition of the proposed deck with a multifunction carport presents exceptional conditions and practical difficulties.

The homeowner seeks the BZA's approval for the construction of an elevated deck that provides outdoor living space with an integrated carport below, thereby fully utilizing the property's limited space and enhancing personal use while complying with zoning regulations. We will build a 14.5'x10' deck, including a set of 3.5' wide stairs that come down from the back door—increasing the total lot occupancy to 100%, ensuring that the property lives up to its maximum potential in terms of functionality and enjoyability. This integration of the deck/carport will help alleviate parking burdens for the property and provide adequate outdoor living space to residents, aligning with the

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EXHIBIT NO. 47**

spirit of the zoning regulations in place that preserve neighborhood character and maintain outdoor space for recreation.

## **II. Burden of Proof for Area Variance (E § 210.1, and X § 1001.2)**

### **1. Exceptional or Extraordinary Conditions**

The property, measuring only 987.30 sq. ft. within the RF-1 zoning district, faces unique constraints. It is limited by a 10-foot rear yard and a rear entrance located 8 feet above ground level. Additionally, the residence is situated in the middle of a row, where the alley is elevated to ensure proper water runoff. This configuration creates a steep incline at the rear of the property, leaving little to no flat, usable space for outdoor recreation or reasonable yard use. These conditions constitute an exceptional situation under the zoning regulations. Unlike properties located at the ends of the row, mid-row residences are often left with an unusable slope, which limits access and practicality. The proposed deck directly addresses these limitations. It will:

- Provide safe and functional access to the rear alley;
- Create usable outdoor space in line with the zoning goal of supporting quiet enjoyment in dense urban areas;
- Offer practical coverage for a vehicle, further enhancing reasonable and intended use of the property; and
- Avoid any negative impact on the use or enjoyment of neighboring properties.

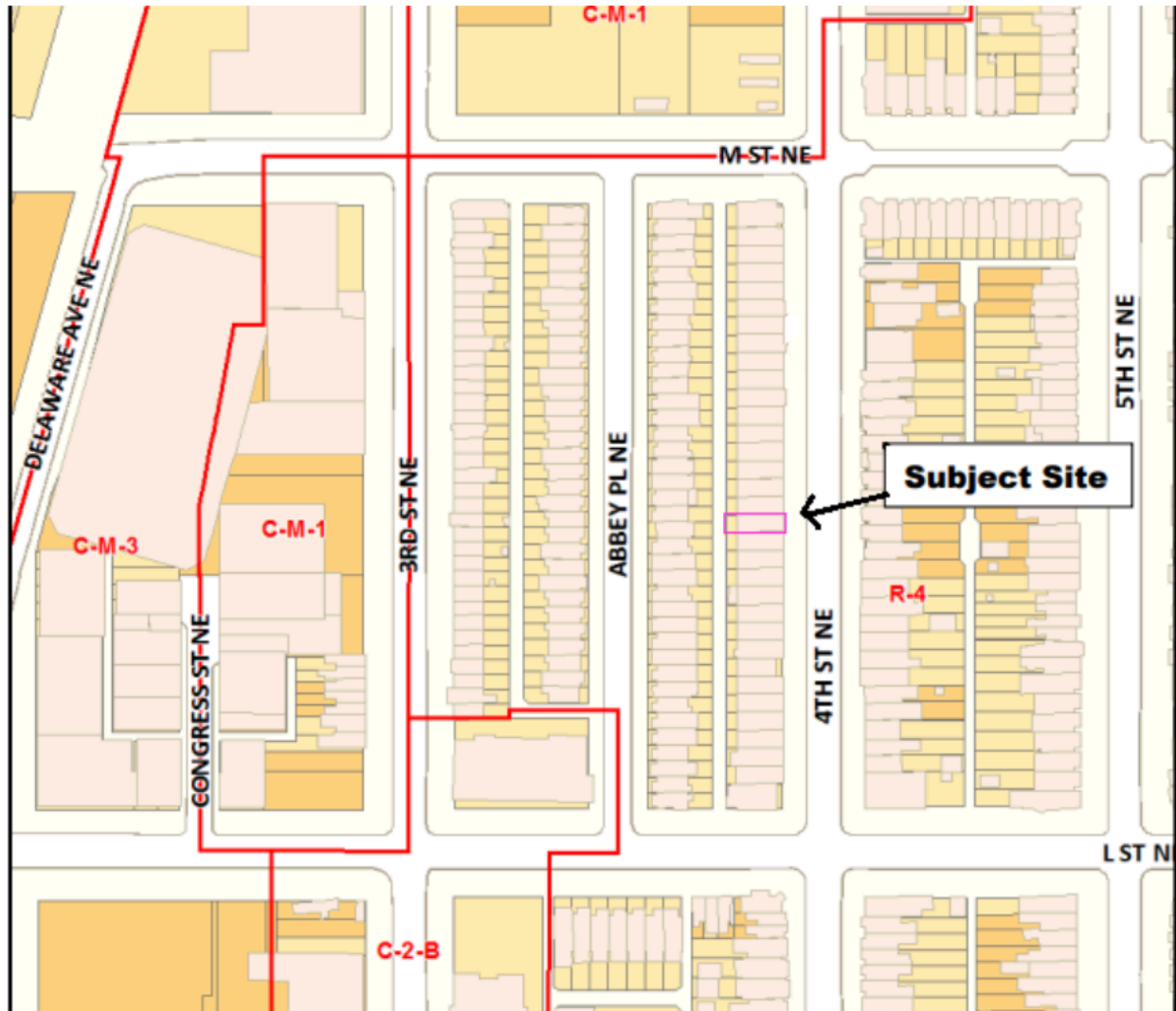
In sum, the unique constraints of the lot make it impractical to utilize the rear yard without relief fully. The proposed deck represents a reasonable and necessary solution that aligns with both the spirit and intent of the zoning regulations.

Would you like me to also streamline future sections into a persuasive brief format (almost like a legal argument), or do you prefer something written more conversationally for a community/zoning board setting?

### **2. Practical Difficulty in Complying with Zoning Regulations**

The home already occupies 84% of the lot, leaving little room for other solutions. With the rear entrance elevated 8 feet, access to the alley is only possible via the existing stairs. Expanding the home or altering access would further reduce usable space. The proposed deck (14.6%) is the most practical way to provide access and outdoor use. Without it, the homeowners cannot fully and reasonably use the property. We are requesting an increase in lot occupancy to 100% to maximize the property's functionality and livability. The subject property also exhibits an exceptional condition in that it is unusually small compared to many rowhouse lots in the District. At 18 feet wide, the lot meets the width requirement for R-4. And with that width, a lot that would conform to the required lot area would be 100 feet deep. However, in this case, the lot is only about half that depth, at 55 feet. Similarly, a conforming lot occupancy of 60% on a 1,800-square-foot lot would equal 1,080 square feet, or 93 square feet larger than the entire lot in the subject case. In other words, the whole building area proposed with this application is less than a matter-of-right lot occupancy on a conforming-sized lot. The square between 3rd and 4th Street was divided in the past by an "alley

street”, known as Abbey Place. Alley streets cut the original squares in half, so that instead of two rows of lots – in this instance, one facing 3rd Street and one facing 4th – there are four rows of lots, here including rowhouses facing Abbey Place. The result is very shallow lots. See the vicinity map below.



The exceptional condition results in a practical difficulty for the applicant, as no usable outdoor space can be created on a deck without violating rear yard or lot occupancy regulations.

### **No Substantial Harm to the Zoning Regulations and Public Good**

Granting the variance supports the zoning intent by allowing functional residential use without disrupting neighborhood character or impacting neighbors. Similar nearby structures show that multipurpose improvements are common. The deck enables reasonable use of the property in line with zoning goals. The deck is similar to the many other decks in the alley, and less visually obvious than some others that are enclosed with fences. The proposed deck does not impact the light or air available to adjacent properties, and the level of privacy for the deck owners and their neighbors is

what is expected in such a dense urban neighborhood. The Zoning Regulations generally support the maintenance of open space on the lot through lot occupancy and rear yard limits. However, in this case, there is not enough room for a meaningful backyard, and the existing space is used for parking and trash bins. The intent of the Regulations would be better realized through the creation of usable outdoor space in the form of a deck. This utilization could also help further one of the goals of the R-4 zone, the stabilization of one-family dwellings (§ 330.2), as present-day families tend to expect some amount of outdoor space. We have also included photos of the existing alley, which show the numerous decks built on the row, as well as the challenges posed by the alley's slope.

### **III. Burden of Proof for Special Exception (E § 5201.1(b), E § 207.1, X § 901.2)**

#### **1. Substantial Compliance with Zoning Regulations**

The proposed deck substantially complies with zoning regulations, supports residential use, and preserves neighborhood character. Its height matches over 85% of nearby homes, ensuring compatibility and no adverse impact on neighbors.

#### **2. No Adverse Impact on the Neighborhood or Surrounding Properties**

Granting the Special Exception will not harm the surrounding neighborhood. The deck is set back appropriately, avoiding encroachment and preserving views, light, and privacy. It replaces an existing concrete patio and does not contribute to noise, traffic, or disturbances, remaining in line with the neighborhood's character. It could be argued that the special exemption would be beneficial to the surrounding neighborhood, as it will likely increase the value of the property and, in turn, the properties surrounding it.

### **IV. Review Standards Under Subtitle E § 5201.4 (a), (b), (c), and (d)**

The application complies with the review standards for a Special Exception under **Subtitle E §5201.4:**

An application for special exception relief under this section shall demonstrate that the proposed addition, new principal building, or accessory structure shall 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 shall not be unduly affected;

*The new deck should not have an undue impact on light and air available to neighboring properties; besides, this deck will help cover one parking spot for the vehicle. Multiple neighboring properties have similarly sized decks or even garages located in the rear of their respective lots. The open-deck design should not hinder air flow or light to adjacent properties.*

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

*The proposed deck should not unduly compromise the confidentiality and enjoyment of neighboring properties. Many other neighboring properties contain similar or larger decks and garages with mechanical opening doors.*

*Additionally, all construction remains within the property lines of the lot.*

(c) The proposed addition or accessory structure, together with the original building, or the new principal 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 street or alley frontage;

*The proposed deck would not be visible from 4th Street N.E at the front of the lot. It would be visible from the Public Alley to the rear, but should not substantially visually intrude upon the character, scale, and pattern of houses along the street. Many other homes in the same row feature rear decks of a similar scale and design, as well as fencing.*

(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, new building, or accessory structure to adjacent buildings and views from public ways.

*The applicant has provided photographs of the property, deck floor plans, and details of the proposed deck, including views from adjacent buildings and public ways, as well as photos of neighboring houses and the public alley.*

## **V. Review Standards Under Subtitle X § 901.2**

The application complies with the review standards for a Special Exception under **Subtitle X §901.2:**

The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

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

*The new construction enhances the alley-facing elevation by introducing depth and architectural interest to an otherwise uniform row-homes. The proposed rear deck is consistent with the existing character of the alley, where many neighboring properties feature rear decks or zero-lot line accessory structures.*

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

*The proposed deck does not adversely affect the use of the property, nor does it compromise the light and view along the 18-foot-wide alley, which is already cramped by row-homes on both sides.*

(c) Will meet such special conditions as may be specified in this title.

*We will ensure compliance with all zoning conditions.*

## **VI. Conclusion**

For the reasons stated above, the homeowner respectfully requests that the Board grant the requested Area Variance and Special Exception. The property presents exceptional conditions, the relief will not harm the public good, and the proposal meets the requirements of the Zoning Regulations.

Thank you for your consideration.

Sincerely,

Jacob Lestock and Daniela Serrano,  
Owners and primary residents of 1130 4th ST NE  
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