

October 10, 2018

MEMORANDUM

To: Board of Zoning Adjustment
From: Elderidge Nichols
Subject: Review Standards – Statement of Testimony

Pursuant to the attached memorandum from the Zoning Administrator, I am requesting the BZA approve a special exception for the construction of a rear deck that encroaches into the required rear yard and exceeds maximum lot occupancy (11-E DCMR 5201.1). The lot has a land area of 831 sqft and is 14.5 ft wide. The current lot occupancy is at 55%. The proposed deck of 8'x12' will increase the lot occupancy to 67.1%, exceeding the maximum lot occupancy (60% in an RF-1 zone) by 7.1% (but maximum lot occupancy of 70% may be allowed as a special exception). The current rear yard depth is 25.3 ft. The proposed deck will decrease the rear yard setback to 17.3 ft, which is under the minimum rear yard setback (20 ft in an RF-1 zone) by 2.7 ft. Since we plan to seek an Expedited Review (and thus are waiving a hearing), please let this document suffice in lieu of oral testimony.

Special Exception – Lot Occupancy (60% pursuant to DCMR 11-E § 304.1) and Rear Yard Setback (20 ft pursuant to DCMR 11-E § 306.1)

I am requesting the BZA approve a special exception to allow the construction of the proposed deck, which exceeds (1) the maximum lot occupancy of 60% and (2) the minimum rear yard setback of 20 ft for the RF-1 zone. The lot has a land area of 831 sqft, is 14.5 ft wide, and has a rear yard depth of 25.3 ft. The current lot occupancy is at 55.6%. The proposed deck of 8'x12' will increase the lot occupancy to 67.1%, exceeding the maximum lot occupancy by 7.1%. The current rear yard setback is at 25.3 ft. The proposed deck of 8'x12' will reduce the rear yard setback to 17.3, exceeding the minimum rear yard setback by 2.7 ft.

11-X DCMR 901.2(a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps

The proposed deck will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The general purpose and intent of the 60% lot occupancy requirement in the Zoning Regulations and Zoning Maps for the RF-1 zone is regulate the volume of buildings on lots to ensure that buildings within a zone are generally consistent in their volume. As you can see from the attached photographs of the front of the house, the apparent lot occupancy of the house (based on what appears to visually constitute the lot) does not reflect the actual lot occupancy because the property line for my house technically starts at

the front door. Most other buildings in the RF-1 zone are not attached to fenced-in front yards that are technically city property. However, my house and all the houses on my block have large fenced-in front yards that are actually city property. While I understand that the front yard cannot be factored into the lot area of my property, I hope that the Board considers that the house and proposed deck would not appear to visually occupy a large portion of what appears to be the boundaries of my lot.

Because my property line starts at my front door, I do not have the option to build forward from the front of my house. My property is only 14 ft wide; therefore, my contractor told me the maximum width of my deck would be 12 ft (to account for my neighbors' properties and our fences. My rear yard is only 25.3 ft deep. Therefore, the maximum sized deck I could have with the strict application of the 20 ft rear yard setback would be 5'x12'. A 5' deep deck would not be practical because there would not be enough space for even a small table and chairs.

11-X DCMR 901.2(b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps

The proposed deck will not tend to affect adversely, the use of neighboring property. The addition is to a residential building. The proposed deck will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. The proposed deck is consistent with other decks in the community. There are three other decks of similar size on the houses on my block, including one of the houses abutting mine. The other abutting house currently has a staircase leading outside at the same level as the proposed deck. The other houses on my block already have decks similar to the one proposed here or their houses do not have a separate basement unit; therefore, they have direct access to the rear yard from the ground floor. My house is unique in that it is the only house on the block that has neither a rear deck nor access to the rear yard from the main house. No other houses in on this block share this problem, which effectively denies us the benefit of our backyard.

The proposed deck will be in the rear of the house, which backs onto an alley. Therefore, the deck would only be visible to the rears of the adjacent properties. Given the presence of similarly-sized decks on my block (including my next-door neighbor), the minimal dimensions of the proposed deck, and the fact the deck would look out onto an alley, there would be negligible impact on the light, air, and privacy of use available to neighboring properties. The addition of one more deck to the block, which would look out onto an alley, would not visually intrude on the street frontage.

Given the presence of similarly-sized decks on my block, the minimal dimensions of the proposed deck, and the fact the deck would look out onto an alley, there would be negligible impact on the light, air, and privacy of use available to neighboring properties. Further, the

addition of one more deck to the block, which would look out onto an alley, would not visually intrude on the street frontage.

11-X DCMR 901.2(c) Will meet such special conditions as may be specified in this title.

Pursuant to 11-E DCMR 5201.1, the BZA may approve as a special exception in the RF zones relief from development standards including lot occupancy and minimum lot dimensions. Further, the proposed deck meets the special conditions specified in 11-E DCMR 5201.3(e), under which the Board may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%). The proposed deck of 8'x12' will only increase the lot occupancy to 67%.

Additionally, the memorandum from the Zoning Administrator notes the accessory storage shed that was previously removed from my lot. There was previously a 10'x10' storage shed in my backyard. However, at the time I purchased the property, both the roof and wood floor of the storage shed had caved in (apparently due to prolonged water damage) so we have already had the remaining pieces removed from the property. The memorandum does not appear to suggest that any relief is needed regarding the accessory storage shed, but I wanted to explain the reason why it no longer exists for the BZA's benefit.

Addressing the Specific Criteria of E-5201.3(a)-(e)

- (a) The light and air available to neighboring properties shall not be unduly affected;
 - o Given the presence of similarly-sized decks on my block, the minimal dimensions of the proposed deck, and the fact the deck would look out onto an alley, there would be negligible impact on the light, air, and privacy of use available to neighboring properties.

- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
 - o The proposed deck will be in the rear of the house, which backs onto an alley. Therefore, the deck would only be visible to the rears of the adjacent properties. Given the presence of similarly-sized decks on my block (including my next-door neighbor), the minimal dimensions of the proposed deck, and the fact the deck would look out onto an alley, there would be negligible impact on the light, air, and privacy of use available to neighboring properties.

- (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;

- The proposed deck will be in the rear of the house, which backs onto an alley. Therefore, the deck would only be visible to the rears of the adjacent properties. Given the presence of similarly-sized decks on my block (including my next-door neighbor), the minimal dimensions of the proposed deck, and the fact the deck would look out onto an alley, the addition of one more deck to the block (which would look out onto an alley) would not visually intrude on the street frontage.
- (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 or accessory structure to adjacent buildings and views from public ways; and
- Please see the numerous photographs of the property taken at various angles.
- (e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).
- The proposed deck of 8'x12' will only increase the lot occupancy to 67%.