

Burden of Proof Statement

Applicants: Justin Ryan Gomez and Jesse Martinez Jr.

Property Address: 1151 Abbey PI NE, Washington, DC 20002

BZA Application No.: BZATmp4553

Zoning Relief Requested:

- Area Variance (E – 210.1, X – 1002.1)
 - Special Exception (E – 5201.1(b), E – 207.1, X – 901.1)
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I. Introduction

The Applicants Justin Ryan Gomez and Jesse Martinez Jr., respectfully submit this Burden of Proof Statement in support of the application for zoning relief for the property located at 1151 Abbey PI NE, Washington, DC 20002 under the provisions of E – 210.1, and X – 1002.1 for Area Variance, and E – 5201.1(b), E – 207.1, X – 901.1 for Special Exception. This request is necessary due to the property's non-conforming status within the RF1 zoning district, where the existing lot size of 1,038 square feet and 73% lot occupancy presents exceptional conditions and practical difficulties.

The Applicants seek BZA approval for an already constructed deck to fully utilize the property's limited space, enhancing personal use while complying with zoning regulations. This request meets the criteria for both the Area Variance and Special Exception.

II. Burden of Proof for Area Variance (E – 210.1, and X – 1002.1)

1. Exceptional or Extraordinary Conditions

The property, situated on a 1,038 square foot lot in the RF1 zoning district, is constrained by a 12-foot rear yard and an 8-foot elevated rear of the house, combined with the limited space of the rear alley. These conditions make it impractical to fully utilize the rear yard. The existing deck provides essential access to the alley and maximizes outdoor space, enabling reasonable use of the property as envisioned by zoning regulations. The deck is in alignment with the zoning goal of supporting quiet enjoyment in dense urban areas like Northeast Washington, DC, and does not negatively impact neighboring properties.

2. Practical Difficulty in Complying with Zoning Regulations

The home occupies 65% of the lot, leaving limited space for alternative solutions. The rear of the house is elevated 8 feet, and access to the rear alley is only feasible through the existing deck and stairs. Expanding the home or creating alternate access would worsen space limitations. The deck is the only practical solution to provide access and usable outdoor space. Without it, the Applicants would face unreasonable hardship in fully utilizing the property.

3. No Substantial Detriment to the Public Good

The deck aligns with the character of the neighborhood and does not extend beyond the property lines or encroach on neighboring properties. It does not impact light, air, or

privacy for adjacent homes, nor does it increase traffic or congestion. No complaints from neighbors further confirm the deck's compatibility. Therefore, granting the variance will not detract from the public good.

4. No Substantial Harm to the Zoning Regulations

Granting the variance will not undermine the zoning regulations' intent. The deck supports functional residential use, consistent with the objectives of zoning regulations, while maintaining the residential character of the area. It does not interfere with neighboring properties or contribute to congestion. Allowing the variance enables the Applicants to make reasonable use of the property, consistent with zoning objectives.

III. Burden of Proof for Special Exception (E – 5201.1(b), E – 207.1, X – 901.1)

1. Substantial Compliance with Zoning Regulations

The deck is in substantial compliance with the zoning regulations, supporting appropriate residential use and neighborhood preservation. It aligns with zoning goals, minimizing impacts on neighboring properties. The current elevation of the deck is similar to those on more than 80% of the homes on the block, ensuring compatibility and no negative impact on neighbors.

2. No Adverse Impact on the Neighborhood or Surrounding Properties

Granting the Special Exception will not result in any adverse impacts on the surrounding neighborhood. The deck is carefully positioned, with appropriate setbacks, avoiding any encroachment or obstruction of views. There have been no complaints from neighbors. The design respects the neighborhood's character, maintaining privacy and light for adjacent homes, and does not contribute to noise, traffic, or disturbances.

3. Mitigation of Negative Effects

Any potential negative effects have been minimized through careful design. The deck's placement avoids intruding on neighbors' privacy and does not obstruct light or air. The existing concrete patio, which has been part of the property's landscape, does not adversely affect neighboring properties. The deck was constructed with the goal of preserving neighborhood character and minimizing any adverse effects.

4. General Public Welfare and Convenience

The Special Exception supports the Applicants' reasonable use of the property by providing access to the rear and usable outdoor space. The deck enhances the Applicants' ability to make full use of the property while maintaining the neighborhood's residential character. It does not introduce safety concerns or disrupt the public welfare, maintaining the overall quality of life in the community.

5. Consistency with Comprehensive Plan

The Special Exception aligns with the Comprehensive Plan's goals of supporting functional and harmonious residential development. The deck contributes to efficient land use and enhances the livability of the property while preserving the surrounding neighborhood's character. It is consistent with the Comprehensive Plan's vision for residential neighborhoods, promoting appropriate land use and maintaining the residential aesthetic.

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**:

- **(a) Addition to a Residential Building:** The deck does **not adversely affect** the use or enjoyment of any abutting or adjacent dwelling or property. It is well-positioned and does not cause loss of privacy, light, or air to neighboring properties.
- **(b) New or Enlarged Accessory Structure:** The deck, as an accessory structure, does **not adversely affect** the use or enjoyment of neighboring properties. It respects the character of the neighborhood and avoids encroaching on the neighbors' properties.
- **(c) Reduction in Minimum Open Court Dimensions:** The deck does **not reduce** the open court dimensions to the point where it would negatively affect the light and air available to neighboring properties. The layout and design were carefully planned to mitigate any potential impacts on light or airflow.
- **(d) Nonconforming Structures:** The deck does **not increase** any nonconformity associated with the existing structure. It is constructed in such a way that it maintains compliance with zoning regulations, respecting setbacks and property lines.

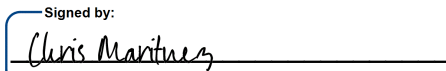
V. Conclusion

For the reasons set forth above, the Applicants respectfully request that the Board grant the Area Variance and Special Exception as outlined in this application. The Applicants have demonstrated that the property has exceptional conditions, that the requested relief will not adversely affect the public good, and that the proposal complies with the criteria in the Zoning Regulations.

The Applicants look forward to presenting this application at the hearing and are available to answer any questions the Board may have.

Thank you for your consideration.

Respectfully submitted,
Chris Martinez, *Authorized Agent*

Signed by:

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