

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

December 14, 2017

Via ISIZ

Nefretiti Makenta
3618 11th St, NW
Washington, DC 20010

Board of Zoning Adjustment
441 4th St, NW Suite 210S
Washington, DC 20001

Re: **Appeal No. 19573**
**Pro Se Appellant's Motion For Additional Time to Respond To DCRA's Motion to Reopen
the Record and to Respond to the New Information and Motion to Postpone Decision Date**

Pursuant to Title 11 Subtitle Y, Appellant hereby requests an extension of time to respond to DCRA's Motion until December 19, 2017 and requests that the December 20, 2017 Decision Date be postponed. In support of such, states as follows:

1. Both consecutive 7-day timeframes to respond to DCRA's Motion to Reopen and to the new Building Permit create a significant hardship for Pro Se Appellant.
2. The time frames allowed for Pro Se Appellant to respond are relatively and effectively unjust in this scenario. DCRA could have added the guardrail through an amended permit in June 2017, when Pro Se Appellant first brought it to the Zoning Administrator's attention. But instead, DCRA waited 5 months in the midst of an ongoing construction project with knowledge that a guardrail was needed; waited until after their dereliction of duty forced the Pro Se Appellant to spend an enormous amount of time, energy and money advocating for DCRA to acknowledge that a guardrail was required; and waited until 5 days *after* the 11/15/17 BZA Appeal hearing, part of which had to, needlessly, be geared to having DCRA acknowledge this basic fact of their code. Now despite DCRA's exorbitant, and possibly intentional, delay of approximately 165 days since having actual and constructive knowledge of the guardrail violation, Pro Se Petitioner is now being given just 7 days to respond.
3. The 11/15/17 BZA Appeal Hearing could have included specific testimony (ie. responses) related to the guardrail now on the plan, but instead, not only did both the DCRA officials and attorneys on both the building and zoning code sides chose to largely ignore the wisdom in Appellant's emails sent 5/3/17; 6/3/17; 6/5/17; 6/9/17; and 9/5/17 informing them of the need for the guardrail and the setback, but both DCRA attorneys, on both the building and zoning code sides, also went before the OAH judge on 9/6/17 and the BZA Commissioners 11/15/17 and claimed that a guardrail was not and could not be missing from the plans and that (therefore) the revised permit that DCRA issued 5/26/17 was not issued in error. (See Exhibit 1: Emails to DCRA zoning and building code officials regarding the guardrail and required setback. Please note, Mamadou Ndaw is DCRA's number two, senior ZA official.)

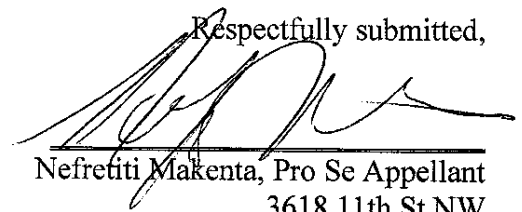
4. While the DCRA ZA, through counsel, attempts to blame the delayed code correction entirely on DCRA building code officials, Exhibit 1 proves that the ZA had a duty to double-check with their co-workers on the guardrail issue long before the BZA Appeal hearing, but effectively gamed the system, by waiting until after the Pro Se Appellant presented a costly case before the BZA. Unfortunately, the negative impact of this sort of strategy to this city and its citizens cannot be understated. When the District's expert authority chooses to withhold clearly germane information until after a hearing, it hurts not only the citizen making the complaint, but also wastes the valuable time, energy and resources of BZA Commissioners and other judicial bodies in the District, who then become unable to dispose of citizen concerns in a timely, efficient and fully informed manner. As the burden of the DCRA ZA's lack of advance planning regarding adding the guardrail, does not fairly rest on the Pro Se Appellant's shoulders, more time is necessary and appropriate.
5. DCRA served its Motion to Reopen the Record on 11/29/17 via email. However, they mislabeled it a "Motion to Dismiss and Pre-Hearing Statement," and by the time the Pro Se Appellant actually saw the attached motion on December 7, 2017, the 7-day timeframe was within hours of lapsing.
6. Appellant first became aware of the new guardrail permit on December 6, 2017 at the OAH hearing regarding the building code issues, where she provided testimony regarding the date of her receipt to confirm this fact.
7. The Appellant might have seen the DCRA Motion to Reopen the Record sooner and been able to respond sooner had that deadline--initiated by DCRA at a time of its choosing, which may or may not be a coincidence--not collided with the OAH hearing date. This hearing lasted 6 hours, included three expert witnesses and dozens of exhibits, and required a massive and intensive amount of advance preparation and coordination on the part of Pro Se Appellant, who has never in her life had to mount a case at the OAH before.
8. Even after the OAH hearing concluded, more was required of the Pro Se Appellant for that case. The OAH judge left the record open and set a hard deadline for additional information from Appellant for 12/13/17. Though she met this OAH deadline, it made it practically impossible for her to also meet the subsequent BZA, 7-day response deadline.
9. Pro Se Appellant needs more time to respond to the Motion, as the District's system of code redress requires one party disputing one permitted development to walk down two entirely separate roads *simultaneously*, with no coordination between the OAH (building code) and the BZA (zoning code) deadline dates, which makes this journey with DCRA acutely difficult to regular property owners, who cannot afford costly legal representation.
10. The BZA's time frame for responses, appears to be geared toward lawyers, who have boilerplates, staff and experience. Indeed, in some ways it seems to be the harshest of all DC judiciary bodies for a Pro Se Appellant. By contrast, the OAH allows 11 days for responses to motions with 5 days added for mail service. The DCCA allows 7 days after service with 5 days added for mail service; and the DC Superior Court allows 10 days after service with 3 days added for mail service. The BZA, however, allows 7-days with no provision for mail service and no provision for delayed email receipt.
11. The Decision Date is now set for December 20, 2017. But DCRA's submission effective 12/8/17 raises new issues that were not in evidence and not addressed or resolved in the 11/15/17 BZA appeal hearing. In light of the new information, the Decision Date should be postponed. DCRA

has changed material facts upon which the hearing was based and introduced other facts that need to be argued and/or addressed in the proper forum.

12. As part of her response, Appellant plans to file a "Motion for Continued Hearing" regarding this new information.
13. If Appellant prevails and the BZA agrees that the ZA did not follow the zoning code in approving the 1st revised permit at issue in this case, which they clearly did not, these new facts could be argued, alternatively, in the context of a Modification of Significance application hearing.
14. DCRA is not prejudiced by this relatively brief delay. To the contrary, DCRA has prejudiced the Pro Se Appellant's case by attempting to wedge in a last minute building permit. DCRA appears to be attempting, at the 11th hour, to confuse the issues. However, nothing in this 2nd revised permit, which places the guardrail 2-inches away from the party parapet wall mitigates the crux of the appeal, and the setback and along with the related privacy, light and air concerns caused by the absence of the required setback remain squarely at issue.
15. The Intervenors are not prejudiced by this relatively brief delay. Though no inspection progress updates have been posted on PIVS, based on the numerous unresolved problems on the building code side, etc., the project appears to be at least 4 months away from completion. Further, the Side Roof Deck at issue, which would be the 5th deck on this row house attached on both sides, while a major issue for the Pro Se Appellant, who is directly and adversely aggrieved by the specter of its presence, is a relatively minor exterior element of the Subject Property.
16. No previous deferrals have been previously been requested in this case.
17. This motion is made in good faith and not intended to delay the proceedings of this case.

Based on all of the above, for good cause shown, additional time is necessary, appropriate, and will conserve judicial resources. For the foregoing reasons, Appellant respectfully requests that the BZA grant "Pro Se Appellant's Motion For Additional Time to Respond To DCRA's Motion to Reopen the Record and to Respond to the New Information and Motion to Postpone Decision Date."

Respectfully submitted,



Nefrefiti Makenta, Pro Se Appellant
3618 11th St NW
Washington, DC 20010

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Pro Se Appellant's Motion For Additional Time to Respond To DCRA's Motion to Reopen the Record and to Respond to the New Information and Motion to Postpone Decision Date** was emailed this 14th day of December 2017 upon:

The following parties and counsel appeared in the agency below:

Party

Meredith Moldenhauer
and/or
and/or Eric DeBear (Counsel for Applicant)
Cozen O'Connor
1200 19th St, NW
Washington, DC 20036

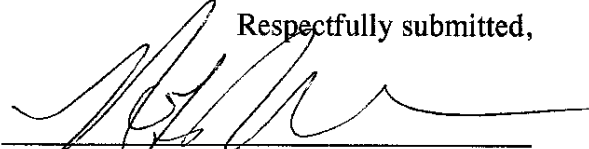
Charles Thomas, Interim General Counsel

Maximillian Tondro, Asst. Counsel
Dept. of Consumer and Regulatory Affairs
1100 4th St, SW 5th Floor
Washington, DC 20024

Kent C. Boese
Chair, Advisory Neighborhood Commission 1A
Single Member District (SMD) 1A08
608 Rock Creek Church Road NW
Washington, DC 20010

Sharon Farmer
Advisory Neighborhood Commission 1A
Single Member District (SMD) 1A07
3601 11th Street NW
Washington, DC 20010

Respectfully submitted,



Nerretiti Makenta, Pro Se Appellant

----- Forwarded Message

From: nef

Date: Wed, 03 May 2017 08:30:34 -0400

To: Lexie and Graham <lexandg@gmail.com, Eric Gronning

<eric@gronningarchitects.com

Cc: "Lee Marsteller (lmarsteller@colegroupllc.com)" <lmarsteller@colegroupllc.com,

Meridith Moldenhauer <mmoldenhauer@washlaw.com, Eric DeBear

<edebear@washlaw.com, "Parker-Woolridge, Doris (DCRA)" <doris.parker-

woolridge@dc.gov, "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov, "Thomas,

Charles (DCRA)" <charles.thomas@dc.gov, "Bolling, Melinda (DCRA)"

<melinda.bolling@dc.gov, "Bailey, Christopher (DCRA)" <christopher.bailey@dc.gov,

"Whitescarver, Clarence (DCRA)" <clarence.whitescarver@dc.gov

Subject: Yr expected 3rd floor balcony deck overlooking into bedroom windows of my property

Your new placement of a 3rd floor balcony overlooking into my bedroom windows into my house window well that has been there for 100 years is yet another example of the un-neighborly disregard and disrespect that appears to be your pattern with me. Unfortunately, I will have to fight this as well.

-NM

----- End of Forwarded Message

From: nef Sent: Saturday, June 03, 2017 6:53 PM

To: Ndaw, Mamadou (DCRA)

Cc: Tondro, Maximilian

Subject: 3616 11th St NW side deck Subtitle C Section 1502.1C1A

Importance: High

It appears that Subtitle C Section 1502.1C1A, requires the railing for the contested 3rd floor side deck to be **a 1 to 1 ratio away**, which would require the side deck on the 3rd floor to be setback almost 4 feet.

Can you please advise as to how they are being allowed to build their deck to the party line not only without regard to my 100-year old windows, but also without regard to this setback rule?

Thank you,

Nefretiti M.

----- End of Forwarded Message

On 6/5/17 7:32 AM, "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov wrote:

Hello,

The Section you are referring to applies to railings on rooftop decks. The side deck as approved is rather a balcony and is not subject to that provision.

Sincerely,
Mamadou Ndaw
Supervisory Zoning Technician
Office of the Zoning Administrator - DCRA

On 6/6/17 10:03 AM, "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov wrote:

Hello Ms. Nefretiti,

The Zoning Administrator interpretation when it comes to differentiating roof decks from balconies, is that roofs that are not more than 10 feet in depth are deemed balconies and are not subject to setback requirements under Subtitle C §1502.1. Moreover the said Section does references roof along with guard rail, see below:

Penthouses, screening around unenclosed mechanical equipment, ..., roof decks, trellises,
and any guard rail on a roof shall be setback from the edge of the roof.

Sincerely,
Mamadou Ndaw
Supervisory Zoning Technician
Office of the Zoning Administrator - DCRA

----- Forwarded Message

From: nef

Date: Mon, 05 Jun 2017 16:30:26 -0400

To: "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov

Cc: "maximilian.tondro@dc.gov" <maximilian.tondro@dc.gov, "Parker-Woolridge, Doris (DCRA)" <doris.parker-woolridge@dc.gov, "Bailey, Christopher (DCRA)" <christopher.bailey@dc.gov, "Thomas, Charles (DCRA)" <charles.thomas@dc.gov

Subject: Re: 3616 11th St NW side deck Subtitle C Section 1502.1C1A

Hello Mr. Ndaw,

I am told that although the zoning regulations do not provide a definition for a balcony, it refers to the Webster's Dictionary for terms not defined. And Webster's says that a balcony is a "platform projecting from the wall of an upper floor of a building..." "jutting out" over a main floor. This is not a "platform projecting" and is not "jutting out."

It is my understanding that zoning describes two types of balconies; an interior and an exterior balcony. An exterior balcony is one that is cantilevered from the exterior wall of the building and either open to the sky, except that another cantilevered balcony on an upper floor projects above it. Whereas, an interior balcony is enclosed in the sides and has a floor above, thereby creating an alcove effect thus the only opening is where the railing is.

But even if this structure is somehow deemed to be a balcony, Section 1502.1 references guardrails in general, regardless of and without reference to their specific purpose.

Also, a building can have multiple rooftops. It is my understanding that a "rooftop" is the roof of a building on any floor once it is unimpeded above by an intervening floor or roof and open to the sky. That seems to fit what this appears to be...

Also, please note, if anyone fell from that side deck, with my deep window well opening right in front of it, they could fall not just 1 floor down, but 3 floors down. So this also does not seem like a very safe approval...

Can you please let me know zoning's perspective on the above?

Thank you,
-NM

From: nef [mailto:dcnef@earthlink.net]
Sent: Monday, June 05, 2017 5:03 PM
To: Ndaw, Mamadou (DCRA)
Cc: Tondro, Maximilian; Parker-Woolridge, Doris (DCRA); Bailey, Christopher (DCRA); Thomas, Charles (DCRA)
Subject: FW: 3616 11th St NW side deck Subtitle C Section 1502.1C1A

P.s. Actually, they'd fall not just 3 floors down, but 3 floors down into some else's property...

----- Forwarded Message

From: nef <dcnef@earthlink.net>
Date: Fri, 09 Jun 2017 12:53:39 -0400
To: "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov>
Cc: "Tondro, Maximilian" <maximilian.tondro@dc.gov>, "Bailey, Christopher (DCRA)" <christopher.bailey@dc.gov>
Subject: Re: 3616 11th St NW side deck Subtitle C Section 1502.1C1A

What do you mean by "interpretation"? That the "10-feet" is not anywhere in the code? If not, where are ZA interpretations catalogued?

-NM

From: nef

Sent: Tuesday, September 05, 2017 5:18 PM

To: Thomas, Charles (DCRA); Parker-Woolridge, Doris (DCRA); Tondro, Maximilian (DCRA); LeGrant, Matt (DCRA); Ndaw, Mamadou (DCRA); Bailey, Christopher (DCRA); Whitescarver, Clarence (DCRA); Lester, Sydney (DCRA); Farmer, Sharon (SMD 1A07); Lawson, Joel (OP); Myers, Allison E. (DCOZ); Moy, Clifford (DCOZ); Bolling, Melinda (DCRA); Bardin, Sara (DCOZ)

Cc: Boese, Kent C. (ANC 1A08); Miller, Christine (SMD 1A05); Nadeau, Brianne K. (Council); Jesick, Matthew (OP); abonds@dccouncil.us; dgrosso@dccouncil.us; rwhite@dccouncil.us; Mendelson, Phil (COUNCIL); ATD EOM3; DuBeshter, Richard (ANC 1A06)

Subject: Contested Side Roof Deck PHOTOS etc. (1 of 2)

Dear All,

Please see attached photos highlighting my MAJOR concerns regarding the side roof deck that DCRA has, I sincerely believe, erroneously approved.

I have been informed by a former TOP code official that due to SUBSTANTIAL privacy issues created by the approval of the side roof deck a special exception is required for this side roof deck adjacent to my roof. I have been informed that the Zoning Administrator exceeded its authority in granting the approval for this side deck with a huge double door opening near the party wall on July 11, 2017 administratively and without BZA approval and input from the public.

While I appreciate the interpretation provided by the ZA regarding its new December 2016 interpretation, it does not appear that this interpretation took into context rowhomes like mine with the architectural feature of windows in the center/on the sides which are not "at risk".

If I am wrong, about this being a unique scenario regarding the recent ZA interpretation, can you please forward me the addresses where the ZA was allowed to officially violate another neighbor's privacy besides mine in this manner without a special exception?

As you were previously informed, this side roof deck with its huge double door opening creates a hazardous situation as there is no guardrail on the plans as required by the building code and no setback as required by the zoning code, ETC. The applicants are attempting to use this parapet wall as a guardrail. Yet, as the largely flat roof is sloped to the back, the parapet wall on the east end of this side deck is 4-feet high BUT only 2-feet high on the west edge of this deck. Yet the guardrail requirement is at least 3 feet and the setback would require the railing to be more than 3-feet away from the parapet wall.

Further, this side roof deck would also enable the adjacent owners and their dozens of AirBnB visitors to peer directly into the bedrooms and bathroom windows at my

property, which were built with the property more than 100 years ago and to randomly toss their cigarettes onto my roof... And my roof rating is not higher than adjacent property, so there is no way the architect certified that it is as required under 705.8.7.

While my horrendous experience thus far has been that DCRA is going above and beyond the call of duty to support the adjacent owners with their recent former BZA Chairperson attorney, I sincerely hope that the attached photos shed enough further light on the impact of the problems being created by this specific approval.

Can you (DCRA officials and/or any other city officials emailed herein with ANY power to correct this wrongly approved side roof deck with its HUGE walkout opening onto my roof) please require the owners to submit a "special exception" application as required or immediately rescind the approval for the opening onto my roof administratively?

Thank you for your time and consideration.
-NM

----- Forwarded Message

From: nef

Sent: Sunday, June 04, 2017 11:27 AM

To: Ndaw, Mamadou (DCRA)

Cc: Tondro, Maximilian; Bailey, Christopher (DCRA); Parker-Woolridge, Doris (DCRA)

Subject: Pergola...solar panels?

I am told that installing a pergola on my roof designed to hold my solar panels is a feasible and permit-able option, which could enable me to stave off the perpetual loss of my property rights and interests due to an increased height addition to the south.

Can you please share your initial thoughts and possible next steps regarding the feasibility of permitting a pergola designed for solar panels on my roof from a zoning standpoint?

Thank you for your time and consideration.

-Nefretiti M.

----- End of Forwarded Message

----- Forwarded Message

From: "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov>

Date: Mon, 5 Jun 2017 12:09:02 +0000

To: nef

Cc: "Tondro, Maximilian" <maximilian.tondro@dc.gov>, "Bailey, Christopher (DCRA)" <christopher.bailey@dc.gov>, "Parker-Woolridge, Doris (DCRA)" <doris.parker-

woolridge@dc.gov>

Subject: RE: Pergola...solar panels?

Hello,

Per DCMR 11 Subtitle C §1502.1 (a) thru (c), the proposed solar panels and **support structures will be subject to a one-to-one setback from the edge of the roof on all sides**. If the proposed design complies with these provisions, you can submit a building permit application along with the required documents as per the attached guide.

Sincerely,
Mamadou Ndaw
Supervisory Zoning Technician
Office of the Zoning Administrator - DCRA

----- Forwarded Message

From: nef <dcnef@earthlink.net>

Date: Sat, 01 Jul 2017 22:16:56 -0500

To: "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov>

Cc: "Tondro, Maximilian" <maximilian.tondro@dc.gov>, "Bailey, Christopher (DCRA)" <christopher.bailey@dc.gov>, "Parker-Woolridge, Doris (DCRA)" <doris.parker-woolridge@dc.gov>, "Thomas, Charles (DCRA)" <charles.thomas@dc.gov>

Subject: Re: Pergola...solar panels?

Hello Mr. Ndaw,

I see pergola's edge to edge on the roofs of properties across the city, without any setback.

But based on your email it appears the you are saying that for solar panels to be installed on a pergola, if the roof is 18 feet wide, as ours are, the pergola with the panels has to be set back 9 feet from each side, which would mean that it would be impossible.

But the code you cite (1502.1) mentions a trellis, and not a pergola and does not mention solar panels at all. It states that:

"Penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, **roof decks, trellises, and any guard rail on a roof shall be setback from the edge of the roof** upon which it is located as follows:

(a) A distance equal to its height from the front building wall of the roof upon which it is located;

(b) A distance equal to its height from the rear building wall of the roof upon which it is located;

(c) A distance equal to its height from the side building wall of the roof upon which it is located if:

(1) In any zone, it is on a building used as a detached dwelling, semi-detached dwelling,

rowhouse or flat..."

Yet as the proposed pergola is an "architectural embellishment," it appears that Subtitle C Section 1501.3 would apply instead. It states:

"Architectural embellishments consisting of spires, tower, domes, minarets, and pinnacles may be erected to a greater height than any limit prescribed by these regulations or the Height Act, provided the architectural embellishment does not result in the appearance of a raised building height for more than thirty percent (30%) of the wall on which the architectural embellishment is located."

Please review the attached photos with solar panels on pergolas. They are quite attractive, and there is absolutely no appearance of a raised building height.

Further, this appears to be a great work around option to help resolve a fundamental and key issue in this matter of the perpetual and permanent adverse impact on my adjacent property due to a potential 40-foot development to the south.

As DCRA seems to be willing to consistently make code interpretations favorable to 3616, it seems that this interpretation favorable to 3618 regarding a pergola with solar panels is a quite reasonable.

Can you please let me know if 1501.3 is sufficient justification for this application as a matter-of-right?

Or if it's not, can you please let me know what else in the zoning code could prevent this application in light of the attached photos?

I look forward to hearing back from you as soon as possible. Thank you so very much for your time and consideration.

-NM

----- End of Forwarded Message

----- Forwarded Message

From: nef

Date: Mon, 25 Sep 2017 16:55:51 -0400

To: "Tondro, Maximilian (DCRA)" <maximilian.tondro@dc.gov>, "Thomas, Charles (DCRA)" <charles.thomas@dc.gov>, "Parker-Woolridge, Doris (DCRA)" <doris.parker-woolridge@dc.gov>, "LeGrant, Matt (DCRA)" <matthew.legrant@dc.gov>, "Parker-Woolridge, Doris (DCRA)" <doris.parker-woolridge@dc.gov>, "Ndaw, Mamadou (DCRA)" <mamadou.ndaw@dc.gov>, "Bailey, Christopher (DCRA)" <christopher.bailey@dc.gov>, "Whitescarver, Clarence (DCRA)" <clarence.whitescarver@dc.gov>, <sydney.lester@dc.gov>, "Cc: Farmer, Sharon (SMD 1A07)" <1A07@anc.dc.gov>, "Lawson, Joel (OP)" <joel.lawson@dc.gov>, "Myers, Allison E. (DCOZ)" <allison.myers@dc.gov>, "Moy, Clifford (DCOZ)" <clifford.moy@dc.gov>, "Bolling, Melinda (DCRA)" <melinda.bolling@dc.gov>, "Bardin, Sara (DCOZ)"

<sara.bardin@dc.gov>

Cc: "Boese, Kent C. (ANC 1A08)" <1A08@anc.dc.gov>, "Miller, Christine (SMD 1A05)" <1A05@anc.dc.gov>, "Nadeau, Brianne K. (Council)" <BNadeau@dccouncil.us>, "Jesick, Matthew (OP)" <matthew.jesick@dc.gov>, "abonds@dccouncil.us" <abonds@dccouncil.us>, "dgrosso@dccouncil.us" <dgrosso@dccouncil.us>, "rwhite@dccouncil.us" <rwhite@dccouncil.us>, "Mendelson, Phil (COUNCIL)" <PMENDELSON@DCCOUNCIL.US>, ATD EOM3 <eom@dc.gov>, "DuBeshter, Richard (ANC 1A06)" <1A06@anc.dc.gov>

Subject: Re: Contested Side Roof Deck PHOTOS etc. (1 of 2)

can you please forward me the addresses where the ZA was allowed to officially violate another neighbor's privacy besides mine in this manner without a special exception?

----- End of Forwarded Message

From: nef

Sent: Monday, October 2, 2017 18:17

Subject: Foia request? 3616 side roof deck?

To: Tondro, Maximilian (DCRA) <maximilian.tondro@dc.gov>, LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>

Cc: Thomas, Charles (DCRA) <charles.thomas@dc.gov>, Ndaw, Mamadou (DCRA) <mamadou.ndaw@dc.gov>, Bailey, Christopher (DCRA) <christopher.bailey@dc.gov>, Whitescarver, Clarence (DCRA) <clarence.whitescarver@dc.gov>, Lester, Sydney (DCRA) <sydney.lester@dc.gov>, Farmer, Sharon (SMD 1A07) <1a07@anc.dc.gov>, Lawson, Joel (OP) <joel.lawson@dc.gov>, Myers, Allison E. (DCOZ) <allison.myers@dc.gov>, Moy, Clifford (DCOZ) <clifford.moy@dc.gov>, Bolling, Melinda (DCRA) <melinda.bolling@dc.gov>, Bardin, Sara (DCOZ) <sara.bardin@dc.gov>, Boese, Kent C. (ANC 1A08) <1a08@anc.dc.gov>, Miller, Christine (SMD 1A05) <1a05@anc.dc.gov>, Nadeau, Brianne K. (Council) <bnadeau@dccouncil.us>, Jesick, Matthew (OP) <matthew.jesick@dc.gov>, <abonds@dccouncil.us>, <dgrosso@dccouncil.us>, <rwhite@dccouncil.us>, Mendelson, Phil (COUNCIL) <pmendelson@dccouncil.us>, ATD EOM3 <eom@dc.gov>, DuBeshter, Richard (ANC 1A06) <1a06@anc.dc.gov>

Hello Mr. Tondro and Mr. LeGrant,

I haven't receive a response to my query on 9/25/17 regarding other addresses where approvals of side roof decks for other attached row houses in DC with and without adjacent interior windows.

Am I required to file a FOIA Request for a listing of all of the addresses where the ZA approved a side roof deck overlooking an adjacent neighbor's interior windows and using the party (parapet) wall as a guardrail without a 1 to 1 setback and without a special exception application under ZR16?

Or is this something the Zoning Administrator can simply provide? If so, can you please let me know by when I can receive this list of approvals?

Also, if 3616 is the first scenario where this sort of approval has occurred, can you please also let me know this?

Thank you,
Nefretiti M.

----- Forwarded Message

From: "Tondro, Maximilian (DCRA)" <maximilian.tondro@dc.gov>

Date: Tue, 3 Oct 2017 12:38:50 +0000

To: nef

Cc: "Thomas, Charles (DCRA)" <charles.thomas@dc.gov>, "LeGrant, Matt (DCRA)" <matthew.legrant@dc.gov>

Subject: Re: Foia request? 3616 side roof deck?

Ms. Makenta,

I do not believe that the Zoning Administrator keeps the kind of data that you are seeking, at least not in a format that would be searchable to answer your question.

As to your claim of that the permit authorized the violation of your privacy rights, that is an issue that is for the BZA to consider and decide at next week's hearing.

Sincerely,
Maximilian L.S. Tondro | Assistant General Counsel