

June 9, 2020

via IZIS

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

Re: BZA Case No. 20178 – 1738 Church Street, NW; Supplemental Submission

Dear Members of the Board:

At the Board's hearing on this Application on January 29, 2020, the Board suggested that the Applicant work with the Office of Planning regarding the concerns noted in the OP Report (Exhibit 34). In addition, at that hearing, there was discussion and testimony regarding the potential practical difficulty to the Applicant in fully using their existing rear egress doorway to 70% lot occupancy alternative for the deck proposal. In further discussions with the Office of Planning, the Applicant has decided to drop the request for 76.7% lot occupancy, and continue with the 72.5% lot occupancy deck proposal, based on a theory that a deck smaller than the one proposed with the 72.5% lot occupancy presents a practical difficult in fully opening the existing rear doors. In addition, any replacement of the existing doors with a sliding glass door presents a financial burden as well as potential security concerns. The Applicant asserts that these financial and security concerns represent an unnecessary burden which justifies the granting of variance relief for the 72.5% lot occupancy alternative.

As described more fully in the record, the Applicant is faced with an exceptional situation due to conditions related to the location, size, and shape of the Subject Property, and due to the subject Building's relative size in relation to the adjacent properties, which both have higher lot occupancy numbers due to deeper principal buildings as well as existing accessory buildings. The Subject Property is alone among this half of the block in having no structure along or near the rear property line. This exceptional condition with the Subject Property results in the peculiar and exceptional practical difficulties noted in the original Statement, including

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unauthorized parking from the nearby Keegan Theatre and possibly other of the close-by commercial uses, providing a space for the proliferation of public trash and rodents, and the typical security issues of having this inviting, open space on this otherwise almost entirely closed row of buildings. Moreover, the neighboring buildings are large and create a canyon of shadow at the rear of the Subject Property, limiting useful outdoor space. With the construction of the proposed garage (which by itself could be approved via special exception), a difficulty emerges in reaching the garage's rooftop from the principal building, due to the relative locations of these buildings and the height of the first floor of the principal building. This difficulty is addressed by the construction of the deck.

If that proposed deck were limited to the 70% lot occupancy alternative, the Applicant would have a practical difficulty in fully utilizing its current doors, as was discussed at the January hearing. At the hearing, the Board asked the Applicant why it could not install a sliding glass door instead of the proposed door that leads onto the proposed deck so that it could reduce the footprint of the deck. The Applicant discussed this option with their contractor and found that to install a new ADA compliant sliding double door, it would have to remove the current door, order a new door, and reinstall it. The estimated cost of labor and materials to complete this request would be \$7,246. A change-order request and price quote has been provided with this submission. Such an amount is unnecessarily burdensome, particularly when considering the small amount of lot occupancy to be added to otherwise resolve the practical difficulty. Then, when also considering security concerns with a rear sliding glass door, the 70% lot occupancy alternative becomes even more unnecessarily burdensome. In this event, the Applicant would find the deck project not viable, or practicable.

Accordingly, without the relief, the Applicant would face a practical difficulty in that the project would not be practical or desirable if it had to install a sliding glass door in order to reach the seventy percent (70%) alternative for the proposed deck, just so that the impervious deck could be thirty-four square feet (34 sq. ft.) smaller than what is proposed at 72.5% lot occupancy. The additional thirty-four square feet (34 sq. ft.) of

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(impervious) lot occupancy is nominal and will be imperceptible, while resolving financial and security concerns of the Application. Based on this additional information, the Applicant respectfully requests that the Board grant the variance relief.

Sincerely

Martin P Sullivan

Martin P. Sullivan, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2020, an electronic copy of this Supplemental Burden of Proof Submission was served on the following on behalf of the Applicant, Murat and Kathryn Kayali.

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