

**SUPPLEMENTAL MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Brandice Elliott, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** June 10, 2020

**SUBJECT:** BZA Case 20178 (1738 Church Street, N.W.) to permit the construction of a rear deck and accessory structure.

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**I. BACKGROUND**

The BZA discussed this case at its January 29, 2020 public hearing. Approximately two days prior to the hearing, the applicant provided alternative plans to the record that showed two scenarios proposing less lot occupancy than the original proposal, which proposed 76.7% lot occupancy: 1) one proposal would provide 70% lot occupancy, permitted with the approval of a special exception, that would reduce the size of the deck to include a small deck off the rear door and a smaller walkway connecting it to the proposed garage roof deck; and 2) a proposal providing 72.46% lot occupancy, permitted with the approval of a variance, that would be similar to the other scaled-back proposal, but including a slightly larger deck off the rear door that would allow sufficient space for the rear security doors to fully open outwards. The applicant discussed the alternative proposals at length with the Board and explained how the original relief request met the variance criteria.

At the end of the hearing, the Board suggested that the applicant continue to work with the Office of Planning (OP) regarding the alternative proposals and requested a supplemental report from OP.

Since the hearing, OP has continued working with the applicant and has visited the property to gain familiarity with the area. Through these continued discussions, the applicant decided to modify the application to request a variance for 72.46% lot occupancy, which is less than the original proposal, but which still requires variance relief.

As discussed during the public hearing and reiterated in the modified burden of proof, the increased lot occupancy is requested so that the rear doors leading out to the deck can be fully operational. In the 70% lot occupancy scenario, the rear doors cannot fully open, resulting in a practical difficulty for safety and security reasons. The Board questioned whether the doors could be replaced during the hearing, and the applicant has provided that the cost of an ADA compliant sliding door would be practically difficult, as the additional labor and materials would add substantial cost to the proposal, particularly considering that the increase in lot occupancy would add only 34 square feet. In addition, a sliding door would not offer the same level of security as the security doors that are presently installed.

As indicated in OP's report at Exhibit 34, the proposed increase in lot occupancy should not cause substantial detriment to the public good, as there are similarly-sized structures along the alley on the same side of the block that have similar lot occupancies. The adjoining neighbors that would be most

potentially impacted by the proposed deck have provided letters of support to the record (Exhibits 8 and 9).

The proposal should not cause harm to the Zoning Regulations, as the additional 34 square feet would allow for a fully functional security door to remain in place. In addition, the deck would be open to the sky and permeable, ensuring that the intent of lot occupancy to provide sufficient open space is maintained.

As a result, OP recommends approval of the requested variance for lot occupancy at 72.46%. OP also continues to recommend approval of the original special exception requested for reduced penthouse setbacks.