

March 29, 2021

Via JZIS

Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210S
Washington, DC 20001

Re: Applicant's Response to Letter from Parties in Opposition - BZA Case No. 20412 (1515 Wisconsin Avenue, NW)

Dear Members of the Board:

On behalf of the Applicant of the above-referenced case, please find our response to the letter from the parties in opposition (Exhibit No. 46) herein.

1. **Requested relief will not adversely affect the use of neighboring properties:** The Parties in Opposition (the "Opponents") claim that the Applicant has not proven that the requested relief will not adversely affect the use of the neighboring properties. Many of the stated objections, such as claims regarding parking and traffic, solid waste, and their concerns about precedent, have no connection to the requested relief. As stated in the Applicant's Statement (Exhibit 8) and the Statement of Existing and Intended Use (Exhibit 29), the Property is currently mixed-use and will continue to be mixed-use. Continuing to use the Property as mixed-use will not tend to adversely affect the *use* the neighboring properties as residential properties, as this use is permitted by right in the MU-4 Zone. Regarding the structure itself and its potential impact on the use of the Opponent's properties, the structure, as proposed, will have a rear yard of just under twenty-five (25) feet, which is nearly ten feet (10 ft.) more than the MU-4 required rear yard setback, and nearly five feet (5 ft.) more than the Opponent's R-20 zone required rear yard setback. Moreover, the height of the Addition at the rear is only twenty-five feet (25 ft.) high, very similar to the height of the homes on 32nd Street, NW, which exposes the fault of the Opponents' claim that this addition "dwarfs" the nearby homes.
2. **Regarding Light, Air, and Privacy Concerns:** The Opponents have concerns regarding the additional shade that will result from the proposed Addition. However, as demonstrated by the submitted shadow study (Exhibit 40B), the difference in shadow between the existing and proposed Building is minimal. While there is some additional shadow from the proposed Addition during the Summer, it is primarily limited to 3 PM and to the Subject Property's own rear yard.

During the Summer, there is also some additional shade to 1518 32nd Street, NW's rear yard, but it is towards the very rear of the property and only at 5 PM. Moreover, there is an existing shadow on 1518's rear yard that will continue to be the shadow that encroaches furthest into their rear yard. The Subject Property's proposed Addition is not extending the

existing shadow any deeper into 1518's rear yard. During the Winter, there is some additional shadow on the rear yard of 1524 32nd Street, NW at 3 PM, but by 5 PM there is no difference between the existing shadow and what is being proposed.

During the Spring/Fall Equinox, there is some additional shadow from the proposed Addition that falls on the rear yards of 1522 and 1520 32nd Street, NW. However, it is located near the property line and not towards the existing buildings, limiting the impact to the very rear of each property. By 5 PM, there is no additional impact on 1522; however, there is still some additional shadow cast on 1520.

The proposed Addition has been designed to minimize any impacts on the light, air, and privacy, of the surrounding properties. The Opponents claim that the Addition will be a "massive rescaling of the property bringing new residents much closer to our homes." This is simply not true given the proposed measurements of the Project. The proposed Addition will still provide a rear yard of 24 ft. 8.5 in., where only a 15 ft. rear yard is required, which will decrease the visibility between future tenants of the Subject Property and the residences that front on 32nd Street and help prevent any "direct views into back bedrooms and living rooms," as the proposed distance is still greater than what is required. As the buildings on this Square already all share views into each other's rear yards, the proposed Addition is not proposing to decrease the existing privacy level that already exists for this block. Moreover, the Applicant is not proposing to increase the overall height of the Building and the proposed Addition will only be 25 ft. tall, approximately 11 ft. lower than the existing Building and 24 ft. lower than what is the maximum height permitted by right in this zone. The Addition will also only extend the existing Building by 5 ft. 4.25 in., a relatively small extension.

Opponents' imply that the shadow study was based on a 50-foot matter-of-right height. Not true. While that is the typical formula for informing the Board about the impact of a requested relief, rather than just the additional shadow, in this case the Applicant provided a straight *existing-to-proposed* analysis, which would show *more* shadow than just what the requested relief would provide. So, the shadow study provided is a conservative analysis, and should be viewed accordingly. Even still, it shows no undue impact.

Furthermore, it is not inconsequential in this analysis to consider that the Subject Property is located in the MU-4 zone; and that the Opponents' voluntarily reside in properties which abut that zone. The MU-4 zone allows for up to 100% lot occupancy, subject only to the 15-foot rear yard requirement, for commercial uses. So, the actual matter-of-right possible structure here is one with a 15-foot rear yard only, and with the CFA-permissible height, which in this case is 25 feet. By this most basic analysis, there is zero additional shadow impact on any properties as a result of the requested relief. The Advisory Neighborhood Commission commented at its meeting on the desirability of having residential units at this location, and it is the existence of these residential units that triggers the lower lot occupancy requirement, and provided the impetus for the Applicant's revising its original proposal, in response to neighbor concerns, to substantially pull back the proposed addition, lowering FAR from the permitted 2.5 to 1.9, and increasing the rear yard setback by almost 10 feet, and reducing the height of the addition by about 7 feet.

3. **Regarding Concern of Establishing a Precedent:** Opponents are concerned that the Board's approval of the proposed Addition will result in a precedent for the surrounding buildings. Every case is decided on its own merits, and not on what has happened in the past, or what *might* happen in the future with other properties, if approved.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2021, an electronic copy of this Applicant's Response to Letter from Parties in Opposition was served on the following on behalf of the Applicant, 1515 Wisconsin Avenue LLC.

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Respectfully Submitted,

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