

February 2, 2022

BY IZIS

Mr. Frederick L. Hill
Chairperson
Board of Zoning Adjustment
One Judiciary Square
441 4th Street, N.W.
Suite 210 – South
Washington, D.C. 20001

Re: BZA Application No. 20629
745 10th Street, SE,
Square 950, Lot 75

Dear Chairperson Hill and Members of the Board:

As the owners of the nine-unit apartment building constructed in 1912 at 747-749 10th Street, SE (Square 950, Lot 53), we respectfully submit the Form 140 Party Status Request in OPPOSITION and supporting information set forth below.

The 747-749 10th St. SE property is immediately abutting the semi-detached single-family dwelling at 745 10th St. SE owned and occupied by Jennifer May.

PARTY WITNESS INFORMATION

We wish to call two witnesses for the hearing of Case 20629 on February 16, 2022:

Margaret McCulloch and Robert McCulloch Jr., the owners of the nine-unit apartment building constructed in 1912 at 747-749 10th Street, SE. Our family has rented below-market, rent-controlled apartments at 747-749 10th Street, SE for the last 50 years, ever since our father purchased the building in 1971. Margaret McCulloch lived in one of the units in the building for 10 years.

We oppose the proposed project next door at 745 10th Street, SE, because it will forever compromise the quality of housing available at our historic apartment building. The effect of the proposed project will unduly compromise our tenants' privacy and their use and enjoyment of their rear decks and the communal back yard.

Not only is 745 10th St. SE proposing a 22' high and 22' 2" long wall along the *entirety* of our rear yard, they also plan to put a massive 236 square-foot roof deck on top. There are numerous garage accessory buildings in the alley. The vast majority are one story. **Not a single one has a roof deck.**

The wall and the roof deck would awkwardly abut our rear porches, and the roof deck would provide unobstructed views of all of our rear porches, our entire rear yard, and straight into our west-facing windows. It is not clear how any of our tenants could feel comfortable enjoying their rear porches or the rear yard if there were people on an accessory building's rooftop deck right next door. The rear of our building contains six apartment decks on the three levels, and a rear yard with table and BBQs for all nine apartments in the building.

Our tenants regularly enjoy meals, drink coffee, work on laptops and socialize on their rear decks. They also grow plants, herbs, and vegetables in pots on their porches and in the rear yard below. The rear yard has patio furniture, a fire pit, multiple planters and communal BBQs. These outdoor living spaces make our building an attractive place for people to live, especially in these times when a lot of public spaces have been off-limits or have had restricted access. **Nine homes share this space, and their privacy and their use and enjoyment would, beyond a doubt, be unduly compromised by the proposed project. The tenants in the nine units of our building have the same rights to privacy, use and enjoyment as all community members, and their status as tenants should not make them second-class citizens of the neighborhood.**

The cumulative impact of all of these negative effects on our tenants and our apartments add up to a “substantial and undue” impact.

The criteria for the special exceptions are the impact on adjacent property’s air, light, use, and enjoyment. This is not about whether the neighbor deserves it, or anything to do with the footprint that they’re working with, or if similar projects have gone through elsewhere. The proposed project will have a substantially adverse impact on our and our tenants’ use and enjoyment of the 747-749 property. The majority of the tenants work from home. They spend much of their time, weather permitting, on their rear sun porches and in their sunny communal back yard. Use of outdoor space has been critical during a pandemic, when meeting with friends and neighbors indoors has been unsafe.

We did not receive a notice about this case from BZA, and the applicant did not reach out to us in any way, even though we live nearby and actively manage the building. We even provided them with our contact information a little over a year ago, when their rear-yard work caused flooding in our basement. We very luckily happened upon mention of the case, and the associated ANC meeting, in an ANC commissioner’s January 29 newsletter. We hope, even with the resulting limited time and resources, that we can effectively communicate to the Board our strong opposition to the plans for which the applicant is seeking zoning relief.

It is important to note that the neighbor has shown no willingness to discuss ways in which they could modify their plans to lessen the adverse effects on our property. There appears to be no interest in compromise on their part.

Please also see Exhibit A – Photographs.

At the public hearing, we request not less than fifteen (15) minutes for presentation, including testimony from Margaret McCulloch and Robert McCulloch Jr.

PARTY STATUS CRITERIA

Please see below the responses to Party Status Criteria in Form 140.

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Board?

Not only is 745 10th St. SE proposing a 22' wall along the entirety of our rear yard (meaning our rear yard would be shut in by 22' foot walls on both sides), they also plan to put a roof deck on top. Both the wall and the roof deck would awkwardly abut our rear porches, and the roof deck would provide unobstructed views of all of our rear porches, our entire rear yard, and straight into our west-facing windows. It is not clear how any of our tenants could feel comfortable enjoying their rear porches or the rear yard if there were people on an accessory building's rooftop deck right next door. **Nine homes share this space, and their privacy and their use and enjoyment would, beyond a doubt, be unduly compromised**

2. What legal interest does the person have in the property?

Margaret McCulloch and Robert McCulloch Jr. are the owners of the adjacent nine-unit apartment building constructed in 1912 at 747-749 10th Street, SE. Our family has rented below-market, rent-controlled apartments at 747-749 10th Street, SE for the last 50 years, ever since our father purchased the building in 1971.

3. What is the distance between the person's property and the property that is the subject of the application before the Board?

We own the building adjacent to 745 10th Street SE. The buildings are attached.

4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the board is approved?

Our tenants regularly enjoy meals, drink coffee, work on laptops and socialize on their rear decks. They also grow plants, herbs, and vegetables in pots on their porches and in the rear yard below. Being outdoors is critical to mental health. The rear yard features patio furniture, a fire pit, multiple planters and communal BBQs. The blunt visual impact of a 22' wall along the entirety of the rear yard will make it a less pleasant place to gather, further affecting use and enjoyment.

There is a significant loss of spaciousness and openness. We realize that the BZA doesn't care about "views," but this is about aesthetics, the look and feel, the spaciousness that our tenants enjoy. They don't just lose the views that they love, they "gain" a huge twenty-two-foot brick wall encroaching right on top of them.

These outdoor living spaces make our building an attractive place for people to live, especially in these times when a lot of public spaces have been off limits or have had restricted access. **Nine homes share this space, and their privacy and their use and enjoyment would, beyond a doubt, be unduly compromised by the proposed project.**

There will also be an economic impact on us as property owners because our units will no longer appeal to people seeking homes with outdoor space that they can privately use and enjoy.

5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Board is approved?

We have rented below-market, rent-controlled apartments at this location for 50 years and would hate to see the quality of life for all tenants and future tenants to forever be adversely affected by the proposed project. The applicant did not reach out to us to share their plans, and are unwilling to explore any less intrusive options.

6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

Our building is the adjacent building to the south. The proposed accessory building with roof deck will have unobstructed views of all of our rear porches, our entire rear yard, and straight into our west-facing windows.

Thank you for your assistance.

Sincerely,

Handwritten signature in black ink, appearing to read "Robert McCulloch Jr. and Margaret McCulloch".

Robert McCulloch Jr. and Margaret McCulloch

Enclosures

cc: Martin Sullivan, msullivan@sullivanbarros.com
ANC 6B, 6B@anc.dc.gov
Kirsten Oldenburg ANC 6B04, 6b04@anc.dc.gov
Karen Thomas, OP, karen.thomas@dc.gov
Aaron Zimmerman, DDOT, aaron.zimmerman@dc.gov



**BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please go to www.dcoz.dc.gov > IZIS > Participating in an Existing Case > Party Status Request for instructions. Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.

Pursuant to 11 DCMR Subtitle Y § 404.1 or Subtitle Z § 404.1, a request is hereby made, the details of which are as follows:

Name:	Margaret McCulloch and Robert McCulloch Jr.		
Address:	1227 E St. SE, Washington DC 20003		
Phone No(s):	202-550-7286 / 212-979-0409	E Mail:	mccproperties@gmail.com

I hereby request to appear and participate as a party in Case No.: 20629

Signature:	<u>2-02-2022</u> <i>[Handwritten Signature]</i>	Date:	<u>2-02-2022</u>
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Will you appear as a(n)	<input type="checkbox"/> Proponent	<input checked="" type="checkbox"/> Opponent	Will you appear through legal counsel?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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If yes, please enter the name and address of such legal counsel.

Name:			
Address:			
Phone No(s):		E Mail:	

ADVANCED PARTY STATUS CONSIDERATION PURSUANT TO: Subtitle Y § 404.3/Subtitle Z § 404.3:

I hereby request advance Party Status consideration at the public meetings scheduled for: N/A

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness;
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts; and
4. The total amount of time being requested to present your case.

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board?
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.)
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied?
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public.

EXHIBIT A – Photographs

Surrounding **one-story** accessory buildings (the corner of 745's yard is at the bottom; the red brick garage is 743):



Rear of our building at 747-749, which contains six apartment decks on the three levels, and a rear yard with table and BBQs for all nine apartments in the building:



Our rear yard. Their first set of drawings inaccurately depicts our yard as a parking lot:



Three levels of porches (north half shown). There are west-facing windows on each level. The lit window here is on the second floor. (The proposed accessory building with roof desk will have direct views of everything):



Additional photo of the three levels of porches (north half shown). There are west-facing windows on each level. The lit window here is on the first floor. (The proposed accessory building with roof deck will have direct views of everything):



First floor, north side sitting area – everything beyond wooden railing will be a 22' wall, dramatically affecting use and enjoyment:



Second floor, north side sitting area – the 3'8" parapet wall of the neighboring rooftop deck would be about midway between the top of the railing and the ceiling, putting faces of people on the deck right under the roofline, inches away:



View of third floor deck looking down – The faces and heads of people standing on the neighboring deck would be near the bottom corner of this third-floor deck, with clear views of everything.

