

EXHIBIT 8- BURDEN OF PROOF

SPECIAL EXCEPTION APPLICATION
5526 MACARTHUR BOULEVARD, NW

To: Office of Zoning Government of the District of Columbia
441 4th Street, NW, Suite 200S
Washington, DC 20001

From: Asure and Robert Contee, III
Owners/Applicants
5526 MacArthur Boulevard NW
Washington, DC 20016

Date: September 24th, 2020

**Re: BZA Application for rear yard relief at 5526 MacArthur Boulevard, NW
(Square 1445, Lot 0065)**

INTRODUCTION AND NATURE OF RELIEF SOUGHT

Robert Contee III and Asure Contee, owners of 5526 MacArthur Boulevard, NW, hereby apply for a Special Exception per DCMR chapter 5201 to build a 1 story rear deck and for relief per Subtitle X § 900.2 of the zoning Regulations to permit the construction of a deck that is not in conformance with the minimum 25 feet rear yard setback requirements per D § 306.1.

JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the special exception approval requested pursuant to Subtitle D § 5201 and Subtitle X § 900.2 from the requirements of D § 306.1.

BACKGROUND

A. Description of the Subject Property and Surrounding Area.

The Subject Property is a three-story, single-family detached dwelling situated on an "L-shaped" lot, located in the R-1-B zone. Abutting the Subject Property to the north is MacArthur Boulevard, NW. Abutting the Property to the east is a single-family residential building. Abutting the Subject Property to the west is a single-family residential building. Abutting the Subject Property to the south is also a single-family residential building. The surrounding neighborhood is characterized primarily by single-family detached dwellings.

B. Proposed Project and Relief Requested

The intended project would add a 10' x 16' open rear deck off of the main level of the residence, accessible from the family room through the existing sets of double doors. The existing sets of double doors are 7'10" above grade and currently leads to nowhere. The rear yard is exceptionally small and constructing this rear deck will allow for the extension of indoor space and the enjoyment of the outdoors.

The proposed deck that falls outside the current zoning regulation and requires an exception to the minimum 25 ft. rear yard setback. We do not propose increasing lot occupancy, as the maximum lot occupancy allowance of 40% in the R-1-B zone will be maintained.

SPECIAL EXCEPTION

A. Summary

The project qualifies under 11 DCMR Section 5201 because: 1) the project is an addition to a building with one (1) principal dwelling unit; and 2) the addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwellings or properties.

B. Basis of Grant of Special Exception

1. DCMR 11 Subtitle D, 5201.1

The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9.

(b) Yards

The Subject Property is in R-1-B zone and the relief is sought for the rear yard.

2. 5201.2

Special exception relief under this section is applicable only to the following

(a) An addition to a building with only one (1) principal dwelling unit

The relief sought is for a building with only one principal dwelling unit.

3. 5201.3

An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

(c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;

(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways;

(a) Light and Air

The proposed rear deck will have no effect on the light and air to the neighboring properties. There are not hindrances of light and air to any adjoining properties, as the proposed deck is an open air, small addition confined to the rear of the home. Many of the surrounding homes already have similar decks and do not cause any noticeable problems to neighboring properties.

b) Privacy and Enjoyment

The privacy or enjoyment to the neighboring properties will not be unduly compromised by the granting of this exception. The existing trees that provide privacy in the side and rear yard will remain undisturbed. The proposed addition will not create any additional noise or traffic. Many of the surrounding homes already have similar decks and do not cause any noticeable problems to neighboring properties. The construction of the proposed deck will not impact neighboring properties in any way.

c) Street and Alley Views of House

The proposed deck addition will be designed in materials common to single family homes and specifically in the architectural vocabulary of the existing home's details. The proposed deck will blend seamlessly to the existing structure, will not be visible from the front street (MacArthur Boulevard), and the proposed deck is similar in style and composition to multiple other decks throughout the community. The proposed deck will also have no impact on the character, scale, and pattern of houses along subject street. Visibility from the deck will be limited and neighboring properties will be adequately screened from view.

d) Graphic Presentation

Enclosed in this application for relief are photographs and drawings that illustrate that the proposal will not adversely impact the adjacent properties.

The Applicants will be reviewing the plans with the neighbors and will submit letters of “no objection” as we receive them.