

OCTOBER 15th 2019

**VIA IZIS**

Board of Zoning Adjustment  
441 4th St., N.W.  
Suite 220 South  
Washington, D.C. 20001

**Re: Applicant's Burden of Proof Submission  
Application of Murat Kayali & Kathryn Schleckser 1738 Church Street, N.W.**

Dear Ladies and Gentlemen:

We are writing to you in reference to the above request for the construction of a garage with deck on it at the rear of our property at 1738 Church Street, N.W. Initially, we wish to point out that we have obtained statements of support from both of our adjoining neighbors.

**I. Nature of Relief Sought**

The Zoning Administrator's Referral Memorandum case #FY-19-68-Z, provides that the project proposed herein and as further set forth in the Architectural Plans requires Board of Zoning Adjustment Approval as follows: "(1) Variance pursuant to § 604.1 (X-1001.2) for the construction of an accessory structure and deck that is not in conformance with the maximum permitted lot occupancy; (2) A special Exemption pursuant C-1504.1 to permit guardrails on a roof deck that do not conform with the setback requirements of C-1502.1(a), C-1502.1(b) and C-1502.1(c)(1)(A) (X-901.2).

**II. Discussion and Application of Variance Factors**

- A. Element 1: The Physical Characteristics of the Property Makes It Difficult for the Owner to Use the Property in Compliance with Zoning Regulations (with the maximum permitted lot occupancy per F- 604.1 (X-100 1.2) - i.e., shape and size of property, unusual topography or slope, soil problems, etc.**

1738ChurchStreetNW\* Washington DC \* 20036 \* T: 858-699-8577

The property here is unique insofar as it is located in the densely populated Dupont Circle neighborhood of Washington, D.C., close to retail and restaurant attractions and several blocks from the Metro, where parking is at an extraordinary premium, and is located close to the popular Keegan Theater, which holds theater productions weekly Thursday through Sunday nights and afternoons. Moreover, the larger volumes of waste generated by the theater have contributed substantially to the rodent population in the immediate vicinity. The construction of the proposed garage will address these problems by securing the parking area from unauthorized access and by creating an enclosed perimeter which will deter rats and permit an elevated roof deck surface for our family to recreate outdoors and entertaining. Notably, our neighbors, 1740 Church Street, already have an enclosed two-car parking garage.

The physical characteristics of the site are such that it would not be possible to build a secure single-story roof deck garage without the requested variances. Even with demolition of the existing deck as planned, it is not possible to build a garage conforming to zoning requirements for even one car and thereby meet the parking space retention requirement, without exceeding the lot occupancy, rear yard requirements. There is no alternative design which would permit the construction of a protected parking and which would also preserve a secure outdoor recreation area for the owners' future children.

**B. Element 2: A special exception pursuant C-1 504.1 to permit guardrails on a roof deck that do not conform with the setback requirements of C-1502.1 (a), C-1502.1 (b), and C-1502.1 (c)(I)(A) (X-90 1.2).**

Relief to the requirements of Subtitle C §§ 1500.6 – 1500.10 and 1502 may be granted as a special exception by the Board of Zoning Adjustment subject to Subtitle X, Chapter 9 and subject to the following considerations:

The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall.

The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

Our neighbors at 1740 Church St. NW have a roof deck similar to what we are proposing and we believe that our design will match consistently with theirs making our alley a much better looking and clean alley.

### C. Granting the Application Will Not Be of Detriment to the Public Good and Granting the Application Will Not Be Inconsistent with the General Intent and Purpose of the Zoning Regulations and Map.

Currently, there is no safe place for us to enjoy the outdoor space in either the dogleg section on the west of the property, or in the driveway, due to rat infestation, litter incursion, trash trucks and others driving too fast in the alley, and crime. There have been 165 crimes reported, including 150 property crimes, 74 theft crimes, 68 theft from auto crime, and 6 stolen auto crimes within 1000 feet of our home in the last 12 months:

Crimes that reported within 1000 feet of 1738 CHURCH STREET NW, located in the **THIRD, SECOND** Police District(s) between 07/10/2018 and 07/10/2019.

[Download Crime Data](#) | [Crime Definitions](#) | [New Search](#)

Crime Type	Number of Crimes Reported Between		Change
	7/10/2017 to 7/10/2018	07/10/2018 to 07/10/2019	
Homicide	0	0 <a href="#">[view map]</a>	↔
Sex Abuse	2	2 <a href="#">[view map]</a>	↔
Robbery Excluding Gun	9	9 <a href="#">[view map]</a>	↔
Robbery With Gun	0	2 <a href="#">[view map]</a>	↑
Assault Dangerous Weapon (ADW) Excluding Gun	2	8 <a href="#">[view map]</a>	↑
Assault Dangerous Weapon (ADW) Gun	2	0 <a href="#">[view map]</a>	↓
<b>Total Violent Crime</b>	<b>15</b>	<b>21</b> <a href="#">[view map]</a>	<b>↑</b>
Burglary	2	8 <a href="#">[view map]</a>	↑
Theft	74	94 <a href="#">[view map]</a>	↑
Theft F/Auto	68	117 <a href="#">[view map]</a>	↑
Stolen Auto	6	3 <a href="#">[view map]</a>	↓
Arson	0	0 <a href="#">[view map]</a>	↔
<b>Total Property Crime</b>	<b>150</b>	<b>222</b> <a href="#">[view map]</a>	<b>↑</b>
<b>Total Crime</b>	<b>165</b>	<b>243</b> <a href="#">[view map]</a>	<b>↑</b>

Definition of symbols in "Change" column:

If we are permitted to build the garage, we will have a safe place to store belongings currently outside and under the small existing deck, deterring theft and reducing the incentive for would-be thieves to patrol the area. Additionally, we will install non-intrusive lighting with respect to the garage entrance and along the side by the steps and lower rear entrance, further deterring theft with respect to applicant's property. We will also pave the rear area and put up a wall to prevent rodent incursions, promoting the health and well-being of the community. Most important to us, the proposed new deck space on top of the garage, and the protected area in the dogleg, as well as the space between the garage and house, will be a safe, enclosed area for our future children to play outside without the current risk of abduction, theft, or being hit by alley traffic, and with reduced exposure to the rat/trash elements.

Without the proposed project's approval, strict compliance will be "unnecessarily burdensome" insofar as applicants will be forced to choose between a place for their family to recreate outdoors or the continued maintenance of surface parking.

The proposed structure will not burden our neighbors. Both flanking neighbors are in support. The garage and proposed deck are in keeping with other one-story garages and decks along the same row of houses, permitting a "back yard" community among roof deck users. Considering the set-backs and current uses of the decks and parking spaces across the alley, there is no encroachment of privacy.

The proposed project will help reduce parking and traffic maneuverability challenges along the public alley, thereby aiding the public good. The garage will provide a location for us to park our vehicles off the street, helping alleviate on-street parking congestion; and furthermore the setback of the structure will be farther back than current surface-parking of vehicles behind our house, reducing overall on-alley congestion especially for parkers maneuvering into spaces across the alley.

No statements have been submitted alleging the project is inconsistent with the public good nor the general intent and purpose of the Zoning Regulations. Permitting construction of a single-story garage for the well-being of residents, the encouragement of families downtown, and the reduction of alley congestion and increased alley sanitation are in keeping with the zone plan residential goals and the overall goal of renewing the downtown community consistent with the preservation of historic structures.

Thank you for consideration

Respectfully yours,

*Murat Kayali*

Murat Kayali & Kathryn Schleckser