

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMMISSION 3B
GLOVER PARK AND CATHEDRAL HEIGHTS



March 13, 2020

Board of Zoning Adjustment
Office of Zoning
441 4th Street NW Room 221
Washington, DC.

RE: BZA Case 20214 Application for Special Exception
for Rear Deck Addition at 2211 38th Street NW

Dear Chairman and Board Members:

At the ANC3B public meeting on March 12, 2020, the Commission voted unanimously (3-0-0) to support the neighbors in their objections to the above application for a special exception for a rear deck addition at 2211 38th Street NW. The meeting was a duly noticed regular public meeting at which a quorum was present. (Three of the five Commissioners make a quorum and three Commissioners were present).

We are very concerned that the abutting neighbors, Jonathan and Catherine Gillespie at 2213 38th Street NW, and Mark and Alyssia Burke at 2209 39th Street NW, have not gotten straightforward and accurate information about the application. We also are concerned that after the Applicants, through lawyer Martin Sullivan, filed a request with the BZA on February 20, 2020, for a 3-week postponement of the scheduled March 4 hearing in the case, with the stated objective of working with the neighbors to resolve their issues with the application (a request that was approved by BZA on March 2, 2020), the Applicants did not contact the neighbors to address those issues. The request for postponement, when approved by the BZA, creates a public expectation and a responsibility to pursue the objectives the Applicants identified. Though the COVID-19 emergency created difficulties in holding meetings of more than 50 people and restricted some in-person contacts, the Applicants had ample time to use email or telephone to contact the abutting neighbors but they did not have any discussions with the neighbors to work on their concerns.

This application itself also raises many questions. When the ANC first received notice of the application in late December, we flagged it for attention and as the Commissioner for that area, I reached out to the contact person on the application, Mr. Charles (Chad) Dudley, to describe the process the ANC pursues for a local zoning case. I asked Mr. Dudley to contact the nearby neighbors and ask them if they would support the application. Mr. Dudley committed to provide supporting letters to the ANC, as he also committed to provide supporting letters to the BZA, but that did not happen. He has not followed through with the ANC, attended an ANC public meeting, or scheduled a presentation at an ANC public meeting. Ms. Gillespie did attend our meetings in February and March and presented her concerns during our Open Forum, a required element of each agenda, to allow residents to ask questions or make comments.

P.O. BOX 32312, WASHINGTON, D.C. 20007

WEBSITE: WWW.ANC3B.ORG

EMAIL: ANC3BMAIL@GMAIL.COM

3B01
N. GLOVER PARK-CATHEDRAL HEIGHTS
ANN L. MLADINOV

3B02
E. GLOVER PARK.
JACKIE BLUMENTHAL

3B03
W. GLOVER PARK
MELISSA LANE

3B04
CATHEDRAL HEIGHTS
MARY C. YOUNG

3B05
S. GLOVER PARK
BRIAN TURMAIL

After hearing Ms. Gillespie's comments and reviewing the material the Applicants had submitted to BZA, the Commissioners could see that the application poses several problems:

- 1) The application does not make clear whether it is seeking prospective approval for construction of a new deck, or retroactive approval for the existing deck, which was built in 2016 without the required building permits or zoning approval.
- 2) The application does not make clear the size of the deck for which a special exception is requested, citing two different sizes in various exhibits (12.5' x 5.5' in two exhibits, 17.5' x 5.5' in the plans submitted in the case—neither of which corresponds to the dimensions of the existing deck).
- 3) The existing deck is partly constructed on the Gillespies' property at 2213 38th Street NW, creating an illegal encroachment;
- 4) In mid-2019, DCRA staff inspected the existing deck, identified several violations of the building code, and filed a report that the deck should be removed.
- 5) The existing deck is considerably larger than the decks at the adjoining properties, reduces the privacy of the neighbors' back yards at 2213 38th Street NW and 2209 38th Street NW, and when viewed from the public alley/public way, breaks the line, character, and pattern of the houses sharing that street frontage.

For those reasons, we strongly recommend that the BZA not consider granting retroactive approval of the existing rear deck at 2211 38th Street NW.

We also request that the BZA postpone any hearing on Zoning Application 20214 until:

- a) the application has been revised to clarify what the BZA is being asked to approve, and what the precise size of the proposed rear deck addition would be; and
- b) the Applicants have had a chance to present their specific plans and justifications for the project at a duly noticed public meeting of ANC3B at which a quorum is present and the proposed agenda for the meeting has been posted at least seven days in advance of the meeting, listing a presentation on this case on the meeting agenda, and the notice has been shared with the Applicants.

Thank you for your consideration. Please do not hesitate to be in touch with me if you have any questions.

Sincerely,



Brian Turmail
Chairman