

2708 PRINCE STREET PROJECT – ZAB PACKAGE - RIEMER



PROPOSED

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1. PERSONAL STATEMENT

Dear Chairperson Duffy and Members Zoning Adjustments Board (“ZAB”)

I, Robert Riemer, and my wife Sheila are writing you because we need the ZAB’s help. We are looking at a major loss of natural light generally, and specifically obliteration of our morning sun all year (see Applicant shadow studies), due a barrier wall to the East.

The project at 2708 Prince, has a unique design that has greatly increased the walled coverage of the lot. Our home to the west absorbs the entire negative impact of this design. We believe the owner or architect should have foreseen this concern and should have consulted with us at the design stage as they appear to have done with the other immediate neighbor. If they had done this then we, too, could have supported or at least not opposed this project. We all could have avoided the time and money of preparing materials for you, the anguish of being in Europe for the hearing and thus not having the ability to address you, and the time and cost of appealing to the City Council.

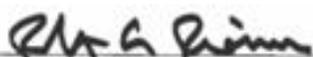
Our request is simply for the design impacts to be mitigated for us as was done for one neighbor. We see this design as hostile to us and the neighborhood because the air and light of the setbacks and open space are exclusively reserved for the occupants. All because the design intentionally walls in open space which walls out our light and air. All detriment from this design is directed a tour home and yard.

With a more conventional design there would be some breaks in the structure to allow air and light so pass through to us. We face a high oppressive solid wall from both the front and side, directly facing the project. Our morning sun is unnecessarily obliterated, and we drink our morning coffee in the dark or in artificial light.

We always expected that the 2708 property might be sold, and then torn down and replaced by a 2-story home, but it was reasonable to believe that any such replacement structure would be in a similar footprint. This is what we saw happen at 2710 Prince. But through aggressive implementation of walled open space whereby enclosed space (using “wooden stud screen systems”) that’s open to the sky they have reduced the lot coverage, allowing for the large walled envelope. Especially when the rules we are talking about revolve around the notion of density of building.

I firmly believe that where there is a) design of “open space” so far as b) to cover a substandard sized or very narrow lot c) within such an extremely short distance from neighboring properties, it is paramount that thoughtfulness of the design be considered and subject to ZAB approval. Does this expansion as designed, present an unreasonable detriment to the neighbors or the neighborhood? We believe it does because there are reasonable design alternatives that can mitigate the detriment to us. Since the architect and owner did not meet with us during the design stage, refused to discuss modifications or meet with us to see the impact, we need and are asking you, the ZAB, to require modifications that will effectively mitigate the detriment to or, DENY if the architect and owner, stonewall you as they did us.

Very truly yours,



Robert Riemer



Sheila Moran

2. **Obstruction of Sunlight, Air**
EASTERN VIEW (PRESENT) 5:00 P.M.

PROJECTED

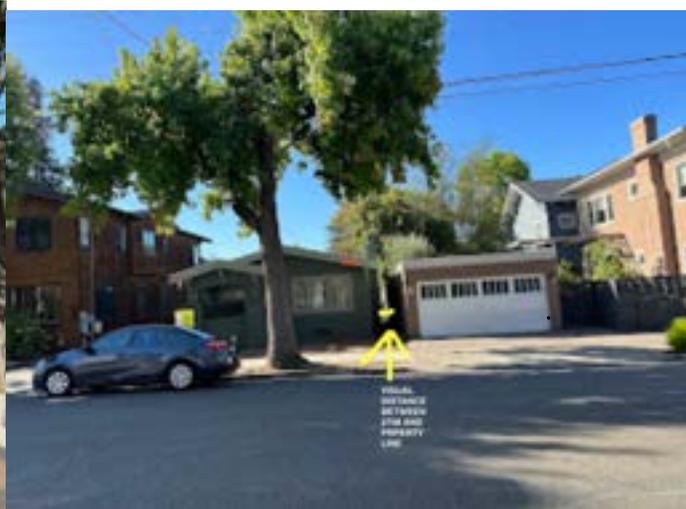


OBSTRUCTION OF SUNLIGHT, AIR AND LIGHT. PRESENT AND AS PLANNED

- **TOP: VIEW LOOKING DUE EAST FROM 2D FLOOR. Uninterrupted structure with no light pass**
- **MIDDLE: VIEW LOOKING SE FROM 2D FLOOR. Uninterrupted structure with minimal light**
- **BOTTOM: VIEW FROM YARD LOOKING DUE EAST**

3. PRINCE ST. DISTANCE BETWEEN PROPERTIES:

Relative distance between properties dictate reasonable to accord greater mitigation to our home. Distance between purple vertical lines below show 3'4" distance between project and our property line.



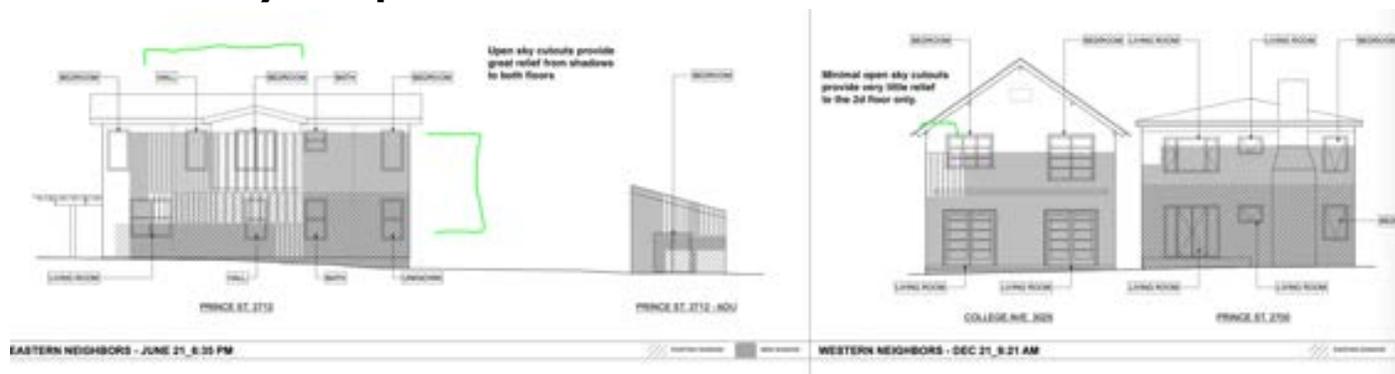
**4. 1st FLOOR VIEW FACING EAST IN A.M
BEFORE**



AFTER



5. Shadow Study Comparison



Comparison of Elevations



RENA RICKLES
ATTORNEY AT LAW

1970 BROADWAY, SUITE 1100
OAKLAND, CA 94612
TEL: (510) 452-1600 • FAX: (510) 451-4111

September 9, 2024

Yes Duffy, Chairperson
Members Zoning Adjustments Board ("ZAB")
1947 Center Street, 3rd Floor
Berkeley, CA 94704
Via email: ZAB@Berkeleyca.gov

Re: 2708 Prince Street, Under the Circumstances of this Application the Finding of Non-Detriment Cannot Be Made; Request Denial or Design Modification.

Dear Chair Duffy and Members of the ZAB:

This office represents Sheila Moran and Robert Riemer ("Riemer") who have lived at 3205 College Avenue for 25 years and whose home lies directly west of the proposed project and, who, because of the unique architectural features of the proposed project, are the most negatively impacted by the project as designed. Their air and sunlight will be obstructed by a 24', 89.4' long (excl the planned ADU) solid wall, situated less than four feet from their property line. The shadow studies conducted by Applicants show that for 12 months/year, the Riemer's will lose their morning sun.¹

Our request is that you either DENY the project or, or that you require that Applicant modify their design so it will not obstruct their air and light.

To approve this application, the ZAB must make the findings set out in 23.406.040 of the Zoning Ordinance. Those findings must be based on the facts of this particular case and under the circumstances existing at the time the decision is made. Here, creating a 24'high, 89.4' long, solid wall, across the entire east side of the Riemer's home, blocking their morning light, the finding of non-detriment cannot be made.(Exhibits 2-4) As Such, Under 23.406.040(E)5,the ZAB Must Deny The Application or Require Modifications to Mitigate the Detriment.

¹ The Community outreach misleads the amount of community support. It is only addresses that are not impacted, or belong to applicant or her tenants, or obtained the design modifications we are seeking who support or are indifferent. Addresses impacted oppose the project.(See Item 6)

Admittedly Berkeley does not have residential design review, but when it is the design that creates the detriment, the ZAB has the authority to request that the portions of the design that causes detriment be modified, especially here where the design can be [and has] been modified to the benefit of others, with no loss in density.

This letter addresses the “Use Permit for to construct a two-family dwelling.” The design of this two-family dwelling places all the open space and setbacks inside solid walls, just feet from the property line, akin to the condominiums in Southern California, (e.g., Venice or Palm Desert) where each unit lies within gates. There the gated walls are 6-8’; here, they are 24’ high. Moreover, this two-family dwelling is a linear duplex whereby the units will run front-to-back, without separation nor openings for light and air. An ADU, before you for information only, will be appended, also without a break, to the rear of the two lengthy units, making the 24’ high wall 110’ long.

Under the circumstances of this case, 1) where the 24’ high wall blocks morning sun all year, and 2) significantly obstructs eastern light 24/7, and 3) where that design can be modified, the finding of non-detriment cannot be made.

Comparing the distances between the properties and the eastern elevation to the western elevation (facing the Riemer’s) , reveals a significantly disparate design and impact: On one, where the abutting properties are set 8’ apart, there are multiple open spaces, open both to the sky and the adjacent property.(Ex. 3) The side facing the Reimers has no breaks in the 24’ high wall. (Ex. 5) East and West Elevations) Similar cut-outs on the side facing the Riemer’s would significantly enhance the amount of sunlight and air coming through mitigating the detriment to them. Also, by separating each of the units, additional space for light and air can be created.

The shadow studies also show that 1) the obliteration of morning detriment to the Riemer’s home is significant and, 2) that because of design modifications, the detriment to 2917 Prince is, by comparison, greatly reduced Taken together, the comparative, shadow studies, elevations, photographic images reveal the disparate impacts on the Riemer’s compared to the other neighbor (this neighbor, surprisingly that neighbor supports the project as is). (See Sheila and Robert’s personal statement, (Ex.1, 2 and 4)), comparison of elevations and shadow studies.

The photographs taken by Robert and Sheila from their home and yard show the extreme loss to their existing air and light if this design is approved. (Ex. 4, 6). Instead of looking out into the open air, they will be staring at a 24’ high blank wall—a significant obstruction that can be mitigated.²

Rei² Story Poles would show the precise loss of light and air, Applicant and Staff denied Robert’s request.

Applicants did not work with Riemer's to resolve design differences; further they refused Riemer's request to discuss the design and to meet on the site.

At no time during the road to ZAB did Applicants reach out or accept an invitation by the Riemer's to meet, notwithstanding that on the first page on Use Permits, Planning writes the "applicants should work with the neighbors to resolve differences." Not just the one you want to talk to. The file will show that the Riemer's wrote to Applicants to discuss resolution, to request story poles and lastly to please visit their home. All requests were summarily denied.

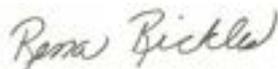
CONCLUSION

As shown above, this design creates major loss of light and air to the Reimers—a major detriment. Because this detriment can be greatly reduced by design modifications not offered to them, makes the detriment an "unreasonable detriment" proscribed by the requisite Use Permit Findings (23.406.04.E1,4,and 5) Thus even though the project itself (is appropriate , it is the design which creates the detriment and precludes a finding of no detriment.

The language in the Use Permit criteria for adequate findings, was intended to guide the decision-maker (ZAB) to look at each case separately, to decide "detriment" on a case-by-case basis. Findings require "projects "designed to be compatible with their neighbors." Here, the Riemer's will lose two hours of their morning sun, will stare daily at a solid 24' high wall looming over the rear part of their house just 3.4' from the property line, running the entire length side of their rear yard open space. With the requested modifications similar to those for the neighbor on the other side, the Reimer's detriment will be similarly greatly reduced. That is clearly not only detriment, but unreasonable detriment. Thus, the Findings for approval, under 23.406.040, cannot be met.

Since the ZAB has the power, and the duty under the Use Permit Ordinance, we ask that the ZAB DENY the project as designed and/or modify the design to significantly reduce the detriment to the Riemer's.

Very truly yours,



Jacob, Melinda

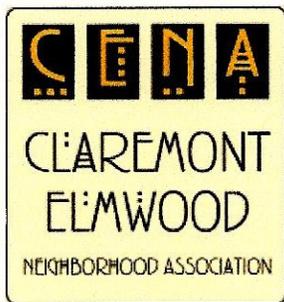
From: Zoning Adjustments Board (ZAB)
Subject: FW: 2708 Prince Street ZAB Application
Attachments: CENA letter to ZAB 2708 Prince 10 September 2024.docx

From: CENA Board <claremontelmwoodboard@gmail.com>
Sent: Tuesday, September 10, 2024 1:17 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Subject: 2708 Prince Street ZAB Application

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Attached please find a letter from the Claremont Elmwood Neighborhood Association in opposition to the 2708 Prince Street Application. Please confirm receipt of this email. Thanks.

Board of Directors
Claremont Elmwood Neighborhood Association



Claremont Elmwood Neighborhood Association
PO Box 5108
Berkeley, CA 94705
E-Mail: info@claremontelmwood.org
Website: www.claremontelmwood.org

10 September, 2024

To: Zoning Adjustments Board

RE: 2708 Prince Street Application, 12 September, 2024

The Claremont Elmwood Neighborhood Association (CENA) respectfully requests that the Berkeley Zoning Adjustments Board (ZAB) to deny the application for 2708 Prince Street, or alternatively, to require design modifications that would preserve the historic look and feel of Prince Street.

The applicant for 2708 Prince Street has submitted plans for a duplex on a R-2A lot that substantially complies with almost all of the zoning requirements for that particular district. However, the lot at 2708 Prince is currently occupied by an historic, 103 year old craftsman style bungalow. The 2700 block of Prince Street is a substantially intact example of the Berkeley streetcar suburb that was developed along with the streetcars that ran along College Avenue. Many such streets in Berkeley are highly valued by both the current residents and prospective buyers, and as such, should be preserved, while still allowing for additional residential density under existing laws.

We have set forth pictures of several properties in close proximity to the project to provide the existing context on Prince Street, and we would also point to the application for an addition to 2738 Prince Street, which is included in this packet. The applicant for 2738 Prince Street has designed the addition in a very sensitive way to preserve the look and feel of the neighborhood.

BMC Section 23.326.020(B) allows the ZAB to approve a Use Permit to eliminate or demolish a dwelling unit only if the elimination of the dwelling unit would not be materially detrimental to the housing needs and public interest of any affected neighborhood or the City. We believe that the design of this project would be materially detrimental to the neighborhood based on the jarring, out of context design, and that the ZAB should not approve the demolition. There is no evidence that the staff report considered the design in the context of the existing built environment, and we ask the ZAB to please consider these impacts and reject the demolition permit.

CENA letter to ZAB re: 2708 Prince Street

BMC Section 23.406.040(E) states that before the ZAB approves an application for a Use Permit, it must find that the project, under the circumstances of this particular case existing at the time at which the application is granted, would not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

In the section of the staff report concerning Section 23.406.040(E) there is no discussion at all of the impact of this project on the historic character of Prince Street. As we noted above, we believe this project is materially detrimental to the neighborhood, and the Use Permit should be rejected under the General Detriment standard.



2700 Prince (next door to the West)

CENA letter to ZAB re: 2708 Prince Street



2712 Prince (next door to the east)

CENA letter to ZAB re: 2708 Prince Street



2708 Prince (current photo)

CENA letter to ZAB re: 2708 Prince Street



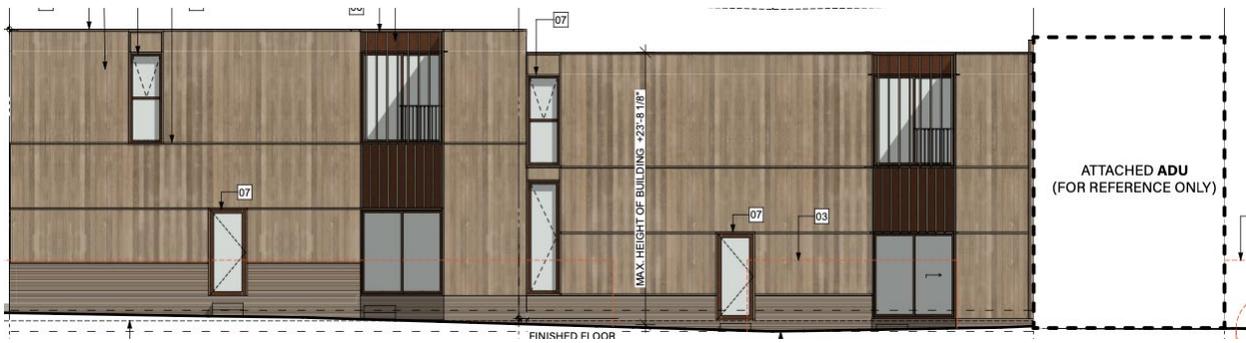
2701 Prince2708

CENA letter to ZAB re: 2708 Prince Street



2708 Prince proposed

CENA letter to ZAB re: 2708 Prince Street



2708 Prince proposed

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Please don't make a hasty decision: consider the Zoning Regulations, etc.

From: Doris Nassiry <cypanjun@hotmail.com>
Sent: Monday, September 9, 2024 10:34 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Subject: Please don't make a hasty decision: consider the Zoning Regulations, etc.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello, Zoning Adjustments Board, These comments are in regards to the Property Development proposals for 2708 Prince Street. From several other neighbors who have deeper knowledge about specific rules and regulations re: a development like this one, there are some major rules that have not been adhered to. Please follow the Law re: setback minimums from the rear property line as well as the required minimum distance between each structure.

It's not just the law that your Board must comply with, but it's also the serious risk that if you don't require compliance with the law and zoning regulations, you would potentially allow other developers to 'follow suit' and assume that by allowinf any risky precedent to move forward, you would potentially be permitting future development projects to disregard zoning guidelines. We, as a City, cannot allow that to happen. We entrust you to enforce all the laws.

No one is 'above the law(s)'. We entrust your Board to fully study, understand and always enforce ALL laws.

Thank you for holding the Hearing on September 12, 2024. Please don't rush your decision: take the necessary time to review every detail and ensure that all laws have been followed. Development with integrity is the only way to ensure that the standards are met. DFN/ Elmwood resident since 1963.

Jeff
Svitak
Inc.

July 3, 2024

Robert Riemer and Sheila Moran
3025 College Ave.
Berkeley, CA 94705
e: robert@av.co

Re: Reimer 2708 Prince 6.21.2024

Dear Mr. Riemer and Ms. Moran,

We are in receipt of your letter of concern regarding the design for the proposed structure at 2708 Prince St. While we respect your opinion on the matter, we don't believe that there is complete or unreasonable blockage to air and light for your property.

In response to the reasonable level of light and air: There is over 30' of space between the proposed building and your home. This far exceeds the requirements for setbacks (current rear setback is 15' in this zone) which are designated by the planning department as reasonable for both light and air.

In response to "stuffing too much structure on a narrow lot": The project as designed, is compliant with the municipal code zoning standards allowed for the property, and sufficiently below the allowable buildable volume, which is 3 stories and up to 35' high. The project is only two stories and is 24' high and it doesn't utilize any allowable projections which could extend into the setbacks even further. So, by-right, a lot more could be stuffed in. Moreover, it appears the existing trees between the two properties will be blocking more of the light and air than the building would. So, I don't believe the new structure will negatively impact or "suffocate" your property more than it

3037 redwood street
san diego ca 92104
858 518 1816
jeff@jeffsvitak.com

Jeff
Svitak
Inc.

currently is. Also, if you look at the design, there is relief in terms of garden cut outs along the east side of the proposed building.

In response to the attached ADU: This part of the proposed building is not adjacent to your property, so I am not totally understanding that concern. However, the ADU is a much-needed housing strategy as a response to the housing crisis at local, state and national levels. This is why it is allowed to be permitted ministerially, without any required additional zoning or use-permits.

In response to the density: I believe the 5-bedroom rule is to limit the number of tenants in a single home. The project as designed contains (2) modest size homes with 3 bedrooms each. All of this is within the rights of the allowable zone. There is in fact no density limit on the property, only lot coverage limitations, so the density of (2) units and (1) ADU might be considered low in consideration to what could be allowable.

In response to the destructive impact of the design: We pride ourselves on design and take a lot of time and consideration to all components of the building design. The elevation of the east wall can be seen on sheet A105 of our submitted application. We do provide the same design aesthetic to both sides of the building. There was careful consideration to maintain the privacy of both the new residents of the proposed building and all the neighboring buildings while still allowing sufficient light and air to everyone. If the building were to be flipped as you propose, your privacy would be impacted in a way where you would be looking straight into a bedroom or living room of the new building. I would find that situation to be more negatively impactful.

Jeff
Svitak
Inc.

With any new project, we understand there will be impacts to neighbors, and we aim to be respectful and helpful wherever possible. We have already deeply considered the design regarding the site restraints and surrounding context. While we understand you do not agree, we believe the project is fitting for the neighborhood and the surrounding environment and it is compliant with the existing zoning regulations.

We would look forward to continuing this dialogue and commentary in regards to our design at the ZAB meeting, which I understand is tentatively scheduled for September 12th.

Kind regards,

A handwritten signature in black ink, appearing to be the initials 'JS' followed by a period.

Jeff Svitak, Architect

Cc: Allison Reimer, Planner

ROBERT RIEMER AND SHEILA MORAN
3025 COLLEGE AVE. | BERKELEY, CA 94705
415.517.9498 | ROBERT@AV.CO

September 9, 2024

Jeff Svitak, 3037 Redwood Street, San Diego jeff@jeffsvitak.com
Linda Joseph, 2700 Prince Street, Berkeley ljoseph97@gmail.com
ZAB@berkeleyca.gov

Re: 2708 Prince; response to your July 3 letter rejecting my offer to meet and reach a compromise; re-offer to meet, confer and settle.

Dear Mr. Svitak,

By this letter, my wife Sheila and I would like to address your comments and counter what we believe are some misstatements in your July 3, 2024, response to our request for a meeting, and/or modification of your design. And we are again asking you to meet with us on our return from Europe to discuss modifications to your proposed design.

Neither of us can say for certain how the Zoning Adjustments Board (“ZAB”) or the City Council will decide on your proposal. As now designed, the entire burden of the detriment of your designs falls upon our home and our yard. We are hoping that if you are willing to make design changes to your proposal which will allow you to keep your proposed density but diminish its significant harm to us and our enjoyment of our home. If this can happen, we both can “control the outcome” in the most beneficial way for both of us.

Our objection with your project as designed are: 1) the entire detriment falls on us, you have not made comparable design mitigations as you did with your eastern neighbor; and 2) by creating and leveraging the walled in “open space” on your property you have a) created 24’ high 89’4” long wall (110’ with the ADU) blocking our eastern air and light and, b) presented a vision of a large dormitory-structure look to our entire street.

By walling in your project, your design defeats the intended benefits of the required side yards and open space for us and our neighborhood.

The required setbacks and open space may be technically satisfied; however, your design creates an envelope that looms as a single wall over the 3 western properties. Moreover, any breaks in light and air provided to your eastern neighbor are denied to us. (See comparison of eastern elevation [facing us] to your western elevation.) There, through “wooden stud screen system” you allowed air and light to pass through to your eastern neighbor but did nothing similar for us. We face the solid, 24’ high 89’4” long wall (110’ with the ADU) long wall, with the mere ~3’4” – 4’ distance from our property line, obliterating the morning sun 12 months a year.

Walling off the front of the project affronts our neighborhood character.

It is not the increased density but the gated solid wall that transforms the look of our residential neighborhood to that of industrial warehouse/dormitory industrial zone.

The design significantly mitigates the loss of air and light to your eastern neighbors; there is no mitigation for your neighbors to the west.

The shadow studies and the two elevations show this disparity. Your claim that the existing vegetation creates the blockage omits the obvious: the trees provide through passage for light and air, trees can be trimmed and thinned to provide for light and air, and trees are not permanent. The unbroken wall facing our home does not, and is indeed permanent.

The neighborhood "support" sheet you submitted is misleading: examination of addresses of supporters reveals that those addresses are ones that 1) you own; 2) have received design concessions mitigating impact; or, 3) are not impacted.

I was informed by the owner that there was a compromise with the east and south abutting neighbors. Why not reach out to us as well? Looking at the plans, it is easy to understand why the owner at 2710 said it "looks great."

Had you similarly consulted with us during the design phase and worked with us as you did with the owner of 2710 Prince, we, too, would not have opposed the project. You not only did not consult with us during the design phase; you refused my offer in July to meet and confer.

Story Poles would have shown the impact of your project on us; you refused our request to provide them.

While you are not required to install story poles, they would have provided an objective visual impact of your project on us. i.e., story poles would have revealed the full destructive impact and aesthetic consequence of the current design in a way that elevations cannot do. Again, while not mandated, we believe that the facts of this development mandate them.

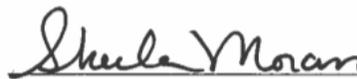
The ADU design (before the ZAB for "information") compounds the blockage of air and light.

As stated at the outset, we do not know how the ZAB or Council will vote: we are asking, again, that you meet with us, provide us with comparable mitigation that you provided the other contiguous neighbor. Then, while neither of us will be thrilled, we can move forward now with certainty regarding your project and its impact upon us.

Very truly yours,



Robert Riemer



Sheila Moran

Cc: Allison Riemer, Planner / Zoning Adjustments Board