



## Advisory Neighborhood Commission 1C

PO Box 21009, NW, Washington, DC 20009

[www.anc1c.org](http://www.anc1c.org)

*Representing Adams Morgan*

### Commissioners:

**Amir Irani** (1C01)

**Hector Huevo** (1C02)

**Ted Guthrie** (1C03)

**A. Tianna Scozzaro** (1C04)

**Vacant** (1C05)

**Vacant** (1C06)

**Wilson Reynolds** (1C07)

**Amanda Fox Perry** (1C08)

June 20, 2018

Fred Hill, Chairman  
Board of Zoning Adjustment  
441 4th Street, N.W., Suite 200-S  
Washington, D.C. 20001

RE: ANC 1C – Motion to Reopen Record on BZA 19771  
1834 Ontario Place NW

Dear Chairman Hill:

ANC1C respectfully files this motion under the provisions of Subtitle Y-407.2 to reopen the record on BZA 19771 per Y-602.6 given that ANC1C was not afforded an opportunity to conduct a cross-examination of the Office of Planning and its report and/or the Appellant during the June 13, 2018 hearing, contrary to Y-408.6. Also pursuant to Subtitle Y-407.2, ANC1C requests that the Board, on its own motion, reopen the record for the purpose of conducting a further hearing on the same issue that would be the focus of cross-examination: the matter of special exception versus variance requirements for placement of an accessory building in the rear yard setback.

Sincerely,

Alan Gambrell  
On Behalf of Advisory Neighborhood Commission 1C  
As Authorized by the ANC 1C Report (Exhibit 40)

Attachment

cc: ANC 1C Commissioner Ted Guthrie

June 20, 2018

Motion to Reopen Record on BZA 19771  
Submitted by ANC 1C Per Subtitle Y-407.2 and Y-602.6  
Appellants: Lee Wells and Malcolm Haith  
Presiding Officer: Chairman Fred Hill

Pursuant to Subtitle Y-407.2, ANC1C respectfully files this motion to reopen the record as, contrary to Subtitle Y-408.6, ANC1C was not afforded the opportunity to conduct a cross-examination of the Office of Planning and/or the Appellant during the June 13, 2018 BZA 19771 hearing. The specific matter to be discussed during such cross-examination would be on the matter of special exception versus variance requirements for placement of an accessory building in the rear yard setback, as stated in the ANC1C Report, Exhibit 40 and summarized below. Also pursuant to Subtitle Y-407.2, ANC1C requests that the Board, on its own motion, reopen the record for the purpose of conducting a further hearing on this same issue.

Cross-examination would afford ANC1C the opportunity to seek clarification on how the Office of Planning (or for that matter, the Board) would accept the premise that development standards in E-5004 for height and area of structures in the rear yard setback could be relieved under E-5007.

The Office of Planning report acknowledges that such relief would typically require relief by variance in footnote 1 of their report. However, the Office of Planning report relies upon an interpretation by the Zoning Administrator that is in conflict with the intent of the regulations as expressed in the ANC1C report and by Zoning Commission member Peter May during the June 13, 2018 hearing. Commissioner May stated that E-5007 relief is not available to accessory buildings that are defined by E-5004.

ANC1C further reinforces this point by reading the regulations (in E-5201.6), which prevent special exception relief from being used to permit non-conforming height, thus requiring relief by variance. Subtitle E-5201.6 reads: "This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception."

#### ANC1C REPORT – RESOLUTION SECTION ON OFFICE OF PLANNING REPORT

"Whereas, the OP report acknowledges that development standards for accessory buildings located in the rear yard setback (E § 5004.2) requires variance relief, there is only a limited explanation for how this case qualifies for the lesser test of special exception relief, in footnote 1 of OP's report: 'Typically, accessory building height relief would require variance relief, not special exception. In this type of case, the relief is related to the rear yard, and the ZA has determined that special exception relief pursuant to E § 5007 is available.'"