

December 10, 2024

Fred Hill,

Chairman Board of Zoning Adjustment of the District of Columbia

441 4th Street, NW Suite 210-S

Washington, DC 20001

Re: BZA 20280A (622 I St. NE)

Dear Chairman Hill,

Applicant moves to oppose the Advisory Neighborhood Commission 6C's (ANC 6C) move to strike Exhibits 32 and 32A filed 12/5/2024 (Exhibit # 34) for the following reasons

Applicant disagrees with ANC 6C's "narrow" interpretation of the Board's request, as articulated in OZ Memorandum of 11/7/2024 (Exhibit # 30)

The Board requested "Additional information pertaining to the Variance argument"

1. As a copy of the Gilmartin Order attests in copiously citing other case law including Monaco, it is customary for case law to cite other relevant case laws which shed related insight into a particular zoning issue, in the instant case the question of what the Board may consider in the uniqueness clause of the three-prong burden of proof for an area variance.
2. Gilmartin is inextricable from Monaco because Gilmartin itself is a reaffirmation in broader context what the DC Court of Appeal had decided in Monaco concerning the uniqueness facet of an area variance application (see Exhibit # 31 OP Supplemental Report)
3. Exhibit # 32 is Applicant's argument or opinion on Gilmartin, including other case laws inextricably tied to and relevant to the issue the Board requested to be briefed by both parties, and its removal from the case record will be grossly prejudicial to the Applicant's case.
4. Exhibit # 32A is simply the source of other relevant case law cited in Exhibit # 32, all focused on the area variance burden of proof standards, and the relevant parts thereof are also highlighted for the Board's convenience and perusal.

5. The ANC 6C's request usurps the broad powers and expertise of the Board to use its judgment to determine what is or what may not be relevant to the brief requested, powers the Court of Appeal has repeatedly ruled as the exclusive preserve of the Board.
6. The Applicant is not opposed the additional time of response requested by ANC 6C, which affords the ANC ample opportunity to rebut and refute the relevance of the interconnected case laws, as cross referenced.

Applicant, for all the foregoing reasons, including failure of the ANC to state specifically how the applicant's supplemental submissions are prejudicial to its case, respectfully requests that the Board deny the move to strike

Respectfully Submitted

A handwritten signature in blue ink, appearing to read "OLUTOYE BELLO", with a stylized, cursive-like script.

Olutoye Bello