

## **Consolidated Rebuttal in Support of BZA Application No. 21295**

Property: 1151 Abbey Place NE

Chris Martinez

Date: June 10th, 2025

Dear Members of the Board:

We respectfully submit this consolidated rebuttal in response to ANC 6C's opposition to BZA Application No. 21295. This document addresses both the procedural inconsistencies in ANC 6C's position and the factual inaccuracies concerning the deck's construction at 1151 Abbey Place NE. The intent is to clarify the record and ensure that this application is judged fairly and based on merit.

### **1. Clarification on Construction of the Deck**

ANC 6C asserts that the deck was knowingly constructed illegally, implying that the Department of Buildings (DOB), particularly its zoning division, had explicitly denied the deck and that construction proceeded regardless. This is inaccurate and speculative.

It is true that the initial permit submission included a deck, while the final approved set did not. However, there is no documentation or communication from DOB indicating that the deck was expressly denied. There were no formal zoning comments or instructions to remove it. The omission from the final set could have resulted from a number of non-zoning-related reasons, including administrative edits or sequencing of construction phases.

ANC 6C presents no evidence to support its claim of willful intent. Furthermore, while two stop-work orders (SWOs) were issued by DOB, the total fines of \$14,614 were later waived. This waiver reflects DOB's judgment that the case did not involve deliberate or egregious misconduct. Had DOB determined intentional noncompliance, such fines would have stood.

### **2. Precedent and Consistency: BZA Case No. 20928 (616 7th Street NE)**

In 2023, ANC 6C - under the same leadership - voted 4-2 to support BZA Case No. 20928, which involved a request for rear yard relief and a deck resulting in 96.4% lot occupancy on a 624 sq ft lot. That property was one of six identical lots, yet the ANC and this Board acknowledged that practical constraints, not just geometric uniqueness, can justify relief. The ANC also confirmed the application had initial miscalculations, but rather than use those as grounds for opposition, they worked with the applicant to correct the record - and ultimately supported the case.

We find it concerning that, in our case, when similar discrepancies were identified and corrected in good faith, they were instead used as the basis for criticism and opposition. We ask respectfully: Why are we being treated differently? If relief was appropriate and supported in BZA 20928, under nearly identical physical conditions and with comparable filing adjustments, we believe this application deserves equal consideration.

ANC 6C further argues in our case that the property is not unique because it is one of more than 60 identical lots - and that this disqualifies us from relief. Yet in BZA Case No. 20928, the subject property was one of six identical rowhomes, and both ANC 6C and the Board agreed that practical difficulty, not geometric uniqueness alone, justified zoning relief. This contradicts ANC 6C's current claim and demonstrates that identical lot conditions do not preclude approval.

Additionally, ANC 6C now claims that 'maximizing outdoor space is not the standard for relief' and that 'stairs to the yard would suffice.' However, in their support letter for 20928, they wrote that 'permitting the deck's construction would improve the usability of the rear yard within this extremely small lot.' The Board agreed - noting that the deck improved functionality in a space that would otherwise have little practical use. That precedent should be fairly applied here. Stairs may provide access, but they do not create usable outdoor living space on modest lots like ours. Relief in our case would serve the same functional benefit that was supported by ANC 6C and approved by the Board in 20928.

### **3. Clarifying Alleged Factual Misstatements**

ANC 6C cites discrepancies in early submissions regarding lot occupancy and parking. These were updated as soon as we gained clarity on actual site conditions-a normal occurrence in zoning cases. Like the applicant in BZA 20928, we have acted in good faith to correct and clarify the record. These adjustments should be seen as responsible participation in the process, not misconduct.

### **4. Parking Constraints Are Real, Even if Not "Required"**

Although the rear alley is only 15 feet wide-making the space technically noncompliant as a 'required' parking space-it has functionally supported off-street parking for the past 11 months. Losing this use due to deck removal would reduce the home's practicality and increase street congestion.

### **5. Outdoor Access and Residential Usability**

The deck provides critical outdoor living space for a modest lot. While stairs could allow access, they do not provide meaningful usability. This feature improves livability, does not compromise neighbor privacy, and is consistent with other properties in the RF-1 zone.

### **6. Consistent Application of Standards**

Zoning relief should be evaluated under consistent, well-applied standards. When two cases within the same ANC are treated very differently under comparable conditions, it calls into question the

fairness of the process. We do not seek special treatment-only the same good-faith evaluation extended to others.

## **7. Inconsistent Opposition by ANC 6C**

Taken together, ANC 6C's opposition to this application directly contradicts the reasoning, standards, and actions it applied in BZA Case No. 20928. In that case, the ANC supported relief for a nearly identical condition - a deck, a high lot occupancy, and practical yard limitations - even when the property was one of multiple identical lots and had initial calculation errors. The Board ultimately agreed.

This inconsistency calls into question whether we are being evaluated on equal grounds. When a public body applies different standards to similar cases under similar conditions, it undermines the integrity of the zoning process.

We respectfully urge the Board to view ANC 6C's opposition in this context - not as a reliable objection grounded in principle, but as a position that deviates from their own recent precedent. Accordingly, we believe the opposition letter should carry limited weight in the Board's consideration.

## **Conclusion**

The current owners are proactively seeking to resolve the deck's status through proper legal channels. There is no evidence of willful noncompliance, and every effort has been made to cooperate with city agencies. We respectfully urge the Board to approve this application based on precedent, good-faith actions, and the merits of the relief requested.

Sincerely,  
Chris Martinez  
1151 Abbey Place NE

## **Appendix A - ANC 6C Letter of Support for BZA Case No. 20928**

The following pages contain the actual letter submitted by ANC 6C in support of BZA Case No. 20928 (616 7th Street NE), dated September 12, 2023.



Government of the District of Columbia  
**Advisory Neighborhood  
Commission 6C**

September 12, 2023

Board of Zoning Adjustment  
of the District of Columbia  
441 4th Street, NW  
Suite 210-S  
Washington, DC 20001

Re: BZA 20928 (616 7th St. NE)

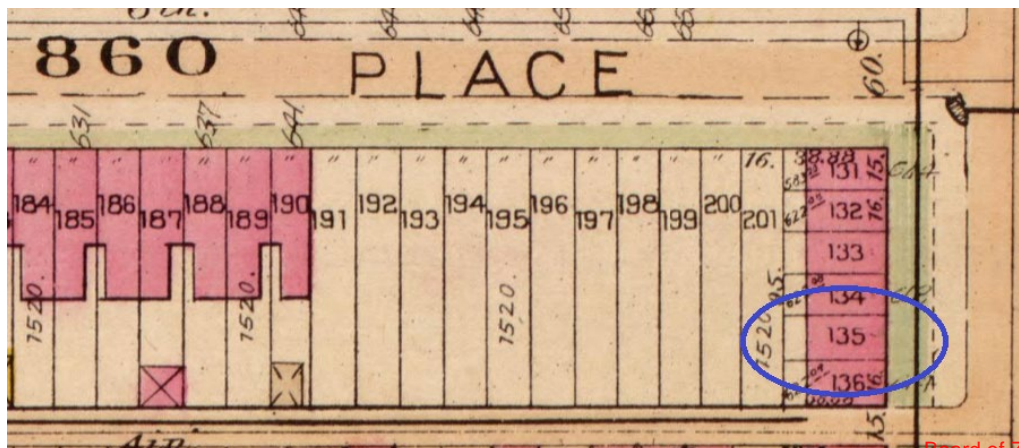
Dear Members of the Board,

On July 14, 2023, at a duly noticed and regularly scheduled monthly meeting with a quorum of six out of seven commissioners and the public present via videoconference, this case came before ANC 6C. The commissioners voted 4-2 to support the application.

The applicant seeks permission to construct a rear deck. A majority of the commissioners agreed that permitting the deck's construction would improve the useability of the rear yard within this extremely small lot.

In taking this position, the Commission noted that the original application's lot-occupancy calculations and accompanying plat were in error. Specifically, the original plat (Exhibit 4) depicted the front façade as set back from the lot line, resulting in a request to authorize 83% lot occupancy (*see* Exhibit 9, p. 3).

In fact, the building is face on line. ANC 6C determined this in two different ways. First, the 1921 Baist atlas shows this property and others in the same row to be face on line. (The atlas does not show the projecting bay.)





We also consulted the DC DDOT TOPS database, which states that the public space between the lot line and the sidewalk is 17.5 feet.

PERMIT LOCATION INFORMATION			
616 7TH STREET NE			
Address Type:	Address	Multiple Address:	
Verified Y/N:	Y	Zone:	RF-1
Quadrant:	NE	Zip Code:	20002
SSL:	0860 0135	ANC:	ANC 6C
Ward:	6	SMD:	SMD 6C05
Locked Y/N:	N	Bid Name:	Not Available
Suspended Street Y/N:		Function Classification:	
Historical Y/N:	N	Fine Art Y/N:	N
ROW Directionality:	One way (Against digitizing direction)	ROW Ownership:	DDOT
ROW LifeCycle Status:	Active	ROW Street Name:	7TH ST
ROW Total:	90	ROW Roadway:	31
ROW Sidewalk 1:	EAST	SideWalk 1 Width:	12
ROW Parking 1:	EAST	Parking 1 Width:	17.5
ROW Sidewalk 2:	WEST	SideWalk 2 Width:	12
ROW Parking 2:	WEST	Parking 2 Width:	17.5

A member of the Commission took measurements at 614 7<sup>th</sup> St. NE, the property next door, and found that the front yard is 17.5 feet deep, corresponding exactly to DDOT's published data.



The front facades of 614 and 616 7<sup>th</sup> St. lie in the same plane, as seen in the photo below. As a result, we believe that the lot occupancy of the proposed condition is close to 100%, not 83% as originally stated.



To be fair, since ANC 6C made him aware of these facts the applicant has revised the submission to state that the proposed condition would result in 96.4% lot occupancy. *See Exhibit 22, p. 3.*

ANC 6C accordingly recommends that the application be granted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Eckenwiler'.

Mark Eckenwiler  
Chair, ANC 6C