



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

Nov. 3, 2025

Re: BZA 21329 (1128 4th St. NE)

Dear Members of the Board,

On July 9, 2025, at a duly noticed and regularly scheduled monthly meeting with a quorum of seven out of seven commissioners and the public present via videoconference, this case came before ANC 6C. The commissioners voted 7-0 to **oppose** the application and to designate Vice-Chair Mark Eckenwiler (6C04) to testify before the Board.

Factual Background

In 2021, the applicant applied for a permit to make renovations to the property. Those original drawings expressly included a deck and railings atop the front porch. According to the applicant, his architect

removed the porch roof deck railings from the plans without the input of the owner. **The addition of a door going onto the porch roof was kept in the plans** despite a roof porch deck being removed from what became the approved designs.

Exhibit 12 (Updated Burden of Proof Statement) p. 1 (emphasis added). The applicant goes on to state that after his first child was born, he elected to address this allegedly unsafe condition by installing railings atop the porch. *Id.* (“Their first daughter was born in the beginning of April 2022. With a new child and a door out to an unsafe roof, the owner decided that safety railings must be installed.”) In 2023, DOB cited the owner for this illegal construction.

The account above is materially false and knowingly so. After reviewing the original application, DOB (then known as DCRA) expressly advised the applicant’s architect in writing that the porch-top railing would require zoning relief, at which point the architect agreed to remove the railings. Contrary to the applicant’s claims, however, the approved plans **did not** include the dangerous condition “of a door going onto the porch roof.” Instead, the architect agreed to install a Juliet railing blocking access to the roof; see the document below.

Zoning Review:

The proposed Balcony over the existing Porch in an RF-1 zone is not permitted without a Special Exception from the Board of Zoning Adjustment (BZA). *Response: Balcony has been removed from scope, and a prefabricated Juliet railing has been added to the exterior of the 2nd floor door. See edits on 03/A200, 04/A300, and 02/A400. Revisions have also been made to the Scope of Work Summary and Proposed Site Plan on sheet 0000, and the Door Schedule on sheet A400. Also, Juliet balcony product information has been added to sheet A300.*

Detail from permit file showing architect's response to the zoning reviewer

Indeed, the final approved plans show just such a juliet railing in front of the only operable door looking out over the porch roof:



Thus, the applicant's decision to construct the porch-top deck and railings was not driven by some inconsistency in the approved drawings that posed a safety risk to his newborn child. Rather, he deliberately chose to ignore the plans (with which he claims familiarity; *see* Exhibit 12 p. 1) and to construct a deck and railings he knew he had no permission to build.

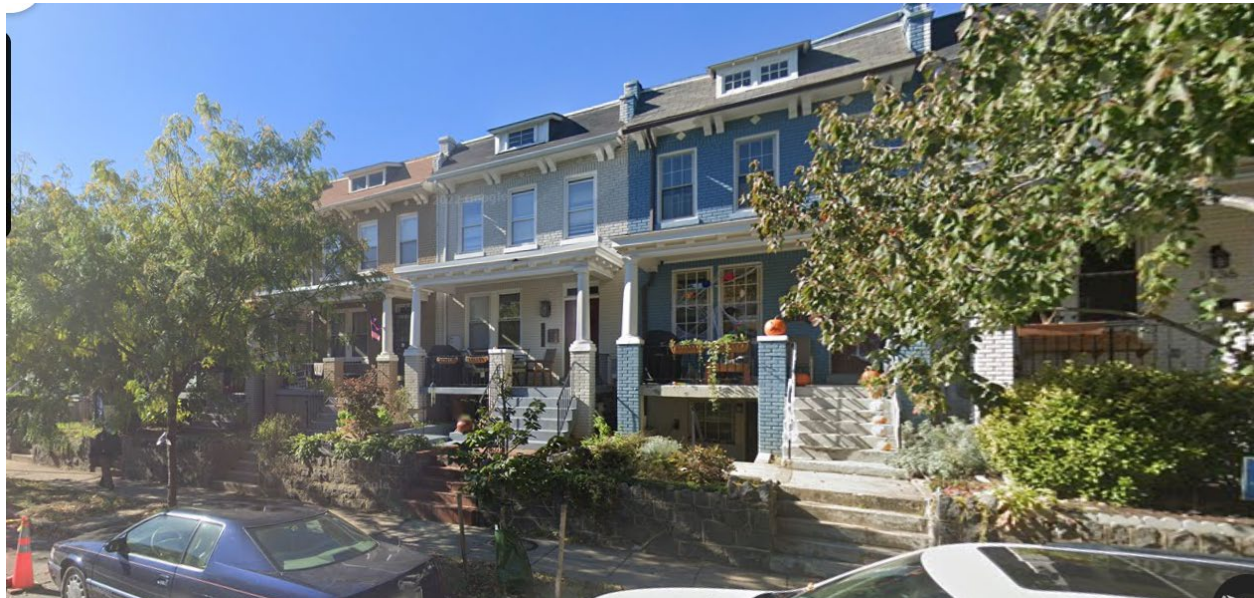
The Special Exception Criteria

The applicant now seeks after-the-fact approval under section E-204.4 for the illegal construction of this deck and railings. That section requires, among other things, that "[t]he ... construction, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage." § E-204.4(a)(3).

The application fails this test. The houses on the west side of the 100 block of 4th St. were all constructed by the same developer – McKeever and Goss – between 1922 and 1923. The 31 houses from number 1102 to number 1162 exhibit a striking uniformity; all were originally

constructed as two-story porchfronts with heavy Italianate brackets supporting a sloping roof with a single dormer and all remain essentially intact today.

Tellingly, apart from the illegal construction at number 1128, not a single one of these houses has a porch-top deck and railings:



The applicant's illegal construction thus "substantially visually intrude[s] upon the character, scale, and pattern of houses along the street."

The applicant attempts unsuccessfully to carry his burden by pointing porch-top decks and railings within a three- or four-block radius from the property. That is not the test. The special exception standard relates to the streetfront **on this block face** because that is what creates the relevant "pattern." The existence of porch-top structures elsewhere in the general neighborhood – many of them illegal by the applicant's own admission – is irrelevant.

This jarring visual intrusion into the character, scale, and pattern of houses on this block is, standing alone, fatal to the application. For completeness, ANC 6C notes in passing that the illegal deck offers point-blank views onto the second-story bedroom windows of both next-door

properties.¹ As a result, the application likewise fails the requirement that “[t]he privacy of use and enjoyment of neighboring properties shall not be unduly compromised,” although the Board need not rely on this additional harm to deny the application.

In closing, we also note that the Zoning Commission is currently considering an Office of Planning text amendment to allow decks up to 200sf to be excluded from “building area” and thus from percentage of lot occupancy. At the hearing tonight in case 25-12, the ZC seemed favorably disposed toward adopting this exemption in some form. If, as expected, that rulemaking is approved, the applicant – along with numerous other property owners across the District – will be able to *legally* construct a rear deck of considerable size. To deny the present application is not to deny the applicant the ability to enjoy an outdoor deck on a different, more appropriate part of the lot.

ANC 6C accordingly urges the Board deny the application.

Sincerely,



Karen J. Wirt
Chair, ANC 6C

cc: Stephen Jackson

¹ Oddly, the owners of those properties have submitted letters of support, but that does not change the nature of the privacy impacts. One neighbor also has a pending BZA application, BZA 21346, which may have been a factor in obtaining support.