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

Dec. 9, 2025

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

Dear Members of the Board,

ANC 6C opposes the applicant's second motion to re-open the record.

The threshold question before the Board is whether the applicant has demonstrated "good cause" to re-open the record. 11-Y DCMR § 602.6. He has not.

Overwhelmingly, the applicant's proposed supplemental filings address the question of whether the illegally constructed porch-top railing "substantially visually intrude[s] upon the character, scale, and pattern of houses along the street …" 11-E DCMR § 204.4(a)(3). That issue was the focus of this application from the outset and the applicant has enjoyed abundant time to compile evidence and offer arguments on that point:

- On July 3, the applicant sought an adjournment of the originally scheduled July 30 hearing. *See* Exhibit 22. That motion specifically cited his desire for "additional time for preparation of materials …." *Id.* In response, the Board postponed the hearing to October 8. *See* Exhibit 24.

- On October 2, the Board *sua sponte* rescheduled the hearing a second time, to November 5. *See* Exhibit 29.

Having had these many months to marshal his best evidence and arguments, the applicant cannot now, more than a month after the hearing, credibly argue that he has "good cause" to bolster his case.

Much of the applicant's proposed supplementation should be rejected for a second reason: it is irrelevant to the Board's deliberations. Specifically, the applicant proffers extensive materials purporting to show what he or his neighbors could *hypothetically* construct as a matter of right.

But that is not the test. The regulations require that the proposed condition – or, as in this case, the illegally built structure for which after-the-fact permission is sought – be measured against what exists today, in reality, and not against the limitless possibilities of what *might* speculatively come to exist in the indefinite future. This applies with equal force to the juliet railing, the architectural feature the applicant was permitted (literally) to build but elected not to.

New information about the juliet railing should be rejected for a second, equitable reason. But for the ANC alerting the Board to the specifics of the issued permit, the Board would never have known anything about the juliet railing. That is because in his early submissions the applicant not only declined to mention it, but affirmatively fabricated an innocent-seeming but false narrative to conceal his own willful misconduct in constructing the porch-top railing. Having done so, the applicant should not now be heard to argue – especially with new materials offered past the eleventh hour – that the juliet railing was or is a factor in his favor.

ANC 6C accordingly urges the Board deny the motion to re-open the record and to deny the application.

Sincerely,

Mark Eckenwiler
Vice-Chair, ANC 6C

cc: Stephen Jackson