

**KATHLEEN F. O'REILLY
414 A STREET, SE
WASHINGTON, D.C. 20003-3807**

RE: 409 E. Capitol St. SE BZA Case #21333

**Comments in Opposition to this Application
Submitted for the September 10, 2025 Hearing**

Please deny applicant's request for additional lot expansion from the maximum allowed by right (60%) to 70% expansion allowed only by Special Exception. As a Capitol Hill resident since 1968, and a homeowner, I oppose this revised Application for which the Applicant has failed to sustain the burden of proof required under Subtitle D, Chapter 52.

This is not opposition to commercial use of E. Capitol property. Like so many others who live in this neighborhood, I love having family-owned small businesses that add not only convenience but a meaningful layer to its social fabric: Jimmy T's, Grubb's Pharmacy, corner markets, as sprinkled on these blocks of East Capitol. Owners and those serving us from behind the counters are our neighbors.

So I emphasize neighbor opposition to this Application is not opposition to such neighbors as these. We will however continue to be vigilant in opposing bad faith unacceptable departures from business operations long valued, including that at issue with still vacant 421 E. Capitol. We maintain strong opposition to the Mayor's continued refusal to have the laws enforced against the illegal commercial use of residences as continues at 417 A Street.

In such situations, as with this revised application here before you, at stake for the Applicant is an investment for their bank account, not an investment in day-to-day life in this neighborhood as vital to those of us who live here.

As a practical matter neither the small businesses we value so much on E. Capitol nor those who live there in rental units or Marquette University's dorm are likely to take the time to weigh in with opposition to an applications such as here at issue. We in fact share the sadness of our neighbors, students at Marquette University housed on that same block of E. Capitol, who days ago lost two classmates killed by a drunk driver in Milwaukee.

Aesthetics. The proposed building must be compatible with the mass, scale, and design of the surrounding neighborhood. As compellingly described to the ANC6B by Frank Snellings, whose family lives at 405 E. Capitol, the revised expansion would be an eyesore, one visible not only from the rear of that property. With the leaves currently on the trees as seen from the back 3rd floor bedroom of my home, I cannot see the space I assume would be thus occupied by that extension, but I do not rule out that once those leaves are gone this fall and winter, such eyesore would likewise affect my own view.

Notice. In that context I explain I received no notice of this application from the Applicant.

“View” as an element of “use and enjoyment” of one’s property. One of the legal requirements for the Special Exemption here sought, and for which the burden of proof is on an applicant not opponents, is whether if allowed the expansion would have a *substantially adverse effect on the use or enjoyment of adjacent properties*. The very size of the extension sought in this revised application would significantly obstruct those current views as inherently inseparable from the reasonable *use and enjoyment of one’s home and property*. The impact of such views should not be casually dismissed, particularly given the Applicant bears the burden of proof.

Space Limitation Requirements. This Maryland realtor Applicant knew space limitations were in place when he bought this property as a business investment; he knew or should have known what criteria would apply if he sought an expansion. From the explanation offered at last week’s ANC6B committee hearing, it is reasonable to conclude why he revised what had been an unopposed application; namely, he came to belatedly realize that given what he paid for this property a few years ago he will not generate the profits he thought would make that investment sufficiently profitable.

So he wants to squeeze out a more acceptable profit level by using more space to fill that investment revenue gap. It is not the role of the BZA to rescue an investor from his own flawed business plan. Put another way, by what logic or principle of fairness should the neighborhood be stuck with an eyesore because he looks to you to save himself *from* himself...from what he now considers his initial imprudent investment?

Historic Character of E. Capitol. The nature of the authority and focus vary depending on whether Advisory Neighborhood Commissions (ANC), Zoning Commission, Board of Zoning Adjustment (BZA), Historic Preservation Review Board (HPRB) or Capitol Hill Restoration Society (CHRS). Yet a continuous thread is the unique historic character of Capitol Hill including what is on and surrounds this E. Capitol Hill property.

Like each sliver of Capitol Hill, E. Capitol has its own stories. This stunningly beautiful street is:

- Where early members of Congress lived under the shared roof of one of many boarding houses.
- Where Daniel Chester French had the studio in which he designed the statue of Abraham Lincoln now sitting in the Lincoln Memorial.
- Where one residence served as an orphanage for largely impoverished African American little boys.
- Where in the shadow of 409 E. Capitol (the property at issue here), sits 403 E. Capitol, once the site of Swiss Dairy, the first woman-owned business in D.C., where horse-drawn wagons delivered milk to be distributed to little markets in the surrounding area.

These histories are fascinating and innumerable as are the many throughout Capitol Hill and our city. I love that the American History Association makes its home on the corner of the street I live on, just one block over from 409 E. Capitol. As neighbors we treasure, respect and in a certain sense are custodians protecting what is consistent with this neighborhood’s unique history; one important reason to live here - not in the suburbs - proud and humbled by a legacy and an aesthetics to be protected.