

**DISTRICT OF COLUMBIA**

**BOARD OF ZONING ADJUSTMENT**

Application No. 21360

In re: 1206 Prospect Street, N.W.

Square 1206, Lot 832

R-3/GT Zone

**POST-HEARING STATEMENT OF OBJECTION**

**AND ISSUE PRESERVATION**

Submitted by: Joanna Perkowska

Opposing Party, Adjoining Property Owner

For the record, the undersigned party in opposition submits this Post-Hearing Statement of Objection and Issue Preservation.

This filing relies solely on the existing evidentiary record and the Board's deliberations. The undersigned does not seek to reopen the record, submit new evidence, or request reconsideration. All rights, including appellate rights, are expressly preserved.

**I. Objection to Any Grant Absent Variance-Specific Findings**

Any grant of area variance relief—whether full or partial—must be supported by substantial evidence establishing each statutory prong for each variance independently, including extraordinary condition, non-self-created hardship, and peculiar and exceptional practical difficulty.

During deliberations, Board members discussed granting some requested variances while denying others. However, the Applicant's own evidence and the Board's discussion on the record reflect that the proposal functions only if all requested variances are granted together.

Accordingly, the undersigned objects to any partial grant unless the Board:

1. Identifies each specific variance granted;
2. Makes variance-specific findings that all statutory prongs are independently satisfied; and
3. Cites substantial evidence in the record supporting each such finding.

Absent these findings, any partial grant would be arbitrary, internally inconsistent, and unsupported by the record.

## **II. Objection to Design-Driven Hardship**

The undersigned objects to any grant of relief based on hardship arising from the Applicant's chosen design rather than from zoning constraints inherent to the property.

During deliberations, Board members identified specific design alternatives on the record—including shifting the structure, modifying its configuration, or reducing its width—that could eliminate or materially reduce the need for one or more variances.

If relief is granted, the Board must explain why reducing the building width by approximately four feet three inches, or pursuing other alternatives discussed on the record, does not defeat a claim of peculiar and exceptional practical difficulty. Any post-hearing amendment would require independent findings supported by substantial evidence and could not rely on testimony or analysis predicated on a materially different design. Any amended design must independently establish hardship based on zoning constraints inherent to the property, not merely cure defects created by prior design choices.

Failure to do so would improperly substitute design preference for statutory hardship.

### **III. Objection Based on Absence of Impossibility Evidence**

The undersigned further objects on the ground that the record contains no substantial evidence demonstrating an inability to put the property to a conforming, by-right use sufficient to justify area variance relief of this magnitude.

The record reflects admissions that the property may be used without variance relief. Reduced size, reduced convenience, or reduced profitability do not constitute peculiar and exceptional practical difficulty.

### **IV. Objection Based on Unrebutted Opposition Evidence and ANC Unanimous Opposition**

The undersigned further objects to any grant of relief that does not expressly address the unrebutted, site-specific opposition evidence in the record.

Adjacent and nearby property owners submitted detailed testimony and written evidence identifying concrete impacts to light, air, privacy, access, safety, and circulation. This evidence is site-specific, grounded in physical conditions, and was not rebutted by substantial evidence.

The record also reflects unanimous opposition by the affected Advisory Neighborhood Commission, which is entitled to great weight under District law. If relief is granted, the Board must articulate with particularity why this opposition is rejected or discounted and reconcile any grant with the intent, purpose, and integrity of the zoning regulations.

Failure to do so would constitute a failure to make required findings.

### **V. Objection Based on Prior Board Denial for the Same Parcel**

The record includes a prior Board decision denying substantially similar variance relief for this same parcel in BZA Order No. 14854 (1988).

If the Board grants relief in this case, it must expressly identify the material factual and legal differences between the present application and the prior denial and explain why those differences justify a different outcome. Absent such findings, any grant would constitute an unexplained departure from Board precedent and would be arbitrary and capricious.

## **VI. Preservation of Rights**

These objections are noted solely to preserve the record. No waiver is intended. All procedural, substantive, and appellate rights are expressly preserved.

Respectfully submitted,

Joanna Perkowska

Opposing Party, Adjoining Property Owner

January 28, 2026