GREGORY L. ROHDE
MAUREEN O'LEARY
222 10TH STREET, SE
WASHINGTON, DC 20003

July 23, 2021

RE: BZA Case #20467

We have lived at 222 10th Street, SE since 1998 and we are writing to express our objection to **BZA Case #20467**, the application to renovate and expand an existing two-story principal dwelling unit, in the RF-1 Zone at 232 10th Street, SE, Washington, DC 20003 and to convert the building from a single-family home into a 2-unit flat. The applicants are seeking special exceptions under Subtitle E § 205.4 (pursuant to Subtitle E §§ 205.5 and 5201 and Subtitle X § 901.2) and for lot occupancy under Subtitle E § 304.1 (pursuant to Subtitle E § 5201 and Subtitle X § 901.2).

Burden of Demonstration. As you know, the BZA regulations require that the applicant has the burden to demonstrate that their addition does not "adversely impact the enjoyment or use of the abutting or adjacent properties…." to receive a special exception. The applicants in this case have not met this burden.

Since the application was first placed on the agenda of the ANC6b, the applicants have submitted 3 different sun studies. Despite the fact there many residents raised questions about these studies and pointed out contradictions among the studies, the applicants never satisfactorily demonstrated that the sunlight impact alone would not have an adverse impact on abutting or adjacent neighbors. The ANC6b did not appear to have analyzed or examined these studies and simply accepted them despite issues that were raised, and insufficient answers provided.

The landlord owner of 232 10th Street, SE – the abutting neighbor – recently changed her position and withdrew her previous objection noting that she understands impact on her home "with sight lines and loss of sun light" but is willing to accept these impacts because she feels "this is the direction that the neighborhood is going." As someone who actually lives in the neighborhood, I certainly hope this it is not going to be the future of the neighborhood. Many residents who live in this neighborhood do not want to have our sight lines and sunlight impacted for landlord owned projects that seek to expand capacity to maximize rental value. The BZA should not determine that the burden under the regulations have been met simply because a landlord owner does not care about the impact. The fact remains that there is going to be an adverse impact on that property despite the acceptance of the landlord owner who does not live there, and the absence of an objection does not mean the regulatory standard of no "adverse impact" has been satisfied. Other adjacent neighbors who are homeowners are not satisfied and do not believe the adverse impact will not be minimal.

We also believe that the reasons for the special exceptions should matter. The applicants do not live in the neighborhood and are seeking to expand the property they own to the greatest extent possible and convert what is now a single-family home into a multi-unit rental. This is obviously an investment property. While the city's rules allow such conversions into rental units, this does not mean it is always desirable and it certainly does not seem like a sufficient reason in this case for a special exception.

Precedents. The applicants have used the existence of other bump-outs on the 200 block between 10th and 11th Streets, SE as justification for their application. We know that some of these bump-outs were illegally done: no permits and certainly no BZA approvals. We raised these concerns with the ANC6b, and it does not appear that they did anything to investigate or even take these facts into consideration before proceeding with their recommendation on this application. It does not seem reasonable to reference illegally constructed expansions as justification for a special exception to bump-out to a similar length. Further, these examples highlight an enforcement problem and the BZA should first address this enforcement problem before moving forward with new special exceptions.

Future precedent is also a serious concern for those who live in this neighborhood. The granting of a special exception should not be reduced to a simple comparison of the length and size of the building expansion or construction with another property on the same block. If the rules are to have any meaning, a high bar should be established to provide any special exceptions. In this case, the applicants have not met the burden required that there be no adverse impact. Special exceptions should not be granted based on an argument that they want similar lot coverage as others on the block have. The regulation does not reference comparable size or coverage. The regulation speaks to the need to demonstrate no adverse impact.

There is no shortage of eager developers who want to purchase single-family homes in this neighborhood and to expand them as much as possible to increase the square footage to maximize the resale value or rental income on the property. Encouraging developers to turn single-family homes into multi-unit flats will transform our Capitol Hill neighborhood. Single-family residential homeowners will find themselves surrounded by a bump-out craze and will be forced to either compete or live in a tunnel if they wish to maintain a small backyard. This will change the unique character of our neighborhood. Allowing this project to move forward would create a very bad precedent and seriously harm the character of the neighborhood. While converting homes into multi-unit flats is allowed, it may in this case lead to a neighborhood transformation to the benefit of developers and landlord owners and to the detriment of the owner-occupied single-family homes.

Broad Residential Opposition. This application attracted broad opposition from the residents of the 200 block who live in the neighborhood. While the applicants have made some modifications to their original proposal, many serious concerns remain with their current plans. Many residents remain frustrated with how the ANC6b considered the application and how the ANC6b came to their recommendation. The ANC6b rushed the process once the applicant decided <u>they were ready</u> to move forward. The ANC6b appeared deaf to the concerns of residents who wanted time to review the new plans and sun studies. This application has not been scrutinized and the ANC6b's process brushed over the significant opposition that remains to the application.

The initial hearing on the application was canceled twice by the applicant at the last minute, each time. On the eve of the July 6, 2021 ANC6b BZA Committee hearing, the applicants sent revised plans to the ANC6b which reflected modifications that emerged from their discussions with a small number of residents. These changes were sent on the day before a holiday weekend and only 5 days prior to the hearing. A second sun study was supplied only 24 hours before the ANC6b hearing. Several concerned residents requested that that ANC6b postpone the hearing so that the new plans and sun study could be analyzed. These requests were bluntly rejected, and the ANC6b chose to proceed, nevertheless. At the hearing, several concerned residents raised issues with the sun studies, including pointing out inconsistencies that the applicant could not or did not adequately address. No ANC6b commissioners provided any feedback or response to the many issues that were raised. Then, less than 24 hours before the full ANC6b meeting the following week, the applicants presented another sun study (the third one for this project) which contradicted previous studies and raised more questions than it answered. Just as at the ANC6b committee hearing, the applicants did not and could not address issues that concerned residents raised. Despite the rushed process and continued opposition to the applicant, the ANC6b proceeded to vote on a recommendation in support of the application. The BZA should reject their recommendation based on process alone.

While some neighbors changed their position on the application based on the last round of modifications and discussions they had with the applicant, most residents who had signed a petition to the original plan were not invited to participate in those discussions and therefore were caught off guard and given little time to review the changes. The number of residents who remain opposed is still significant. Thirty-nine households signed a petition of opposition to the original plans. Since the plans were revised that addressed one of several issues, a new petition is circulating which reflects the modifications and that process continues. The ANC6b decided to move forward with their recommendation considering the continued opposition and appears to have no concern for the views of the residents who actually live in the neighborhood, and who they are supposed to represent.

We understand that the city, working through the BZA and HPRB, review development projects that need zoning approval against several specific rules designed to balance development interests while maintaining historical concerns and respecting the impact on neighbors who live near such development projects. We ask that you keep in mind the need to maintain the integrity of these rules for the long run. It is certainly possible for proposed projects to fall within what is allowable "as a matter of right" yet still have negative consequences in term of the imposition on neighbors and altering the character of a neighborhood. If "special exceptions" and "variances" are granted with frequency, the rules eventually become meaningless.

Gregory L. Rohde — glr@e-copernicus.com

Maureen O'Leary — moleary22@gmail.com