



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



February 13, 2007

Mayor Adrian Fenty
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Re: Gregory Griffis' nomination to the Zoning Commission

Dear Mayor Fenty:

At our regularly scheduled and properly noticed public meeting on February 8, 2007, our Advisory Neighborhood Commission (ANC) voted 7-0 (with 5 Commissioners required for a quorum) to send this letter of opposition to Mr. Gregory Griffis' nomination to the Zoning Commission and urge you to withdraw his nomination. ANC 6A has argued a number of cases over the past four years in front of the Board of Zoning Appeals (BZA), and we have been extremely unhappy with a number of decisions driven by Mr. Griffis. Based on the cases outlined below and those in other ANCs, ANC 6A is strongly opposed to Mr. Griffis' nomination to the Zoning Commission:

1. The BZA under Mr. Griffis' tenure used minor and easily correctable errors to dismiss cases where there was substantial merit to ANC 6A's appeal.
2. Mr. Griffis expects ANC representatives to have the skills and knowledge comparable to full-time land-use lawyers and is unsympathetic to parties that have not spent hundreds of hours researching zoning code and BZA precedents.
3. Mr. Griffis frequently ignores the spirit of the zoning code and formulates decisions based on tortured interpretations of specific provisions. The end result is that Mr. Griffis' BZA will often issue decisions that violate the clear intent of the zoning code in favor of the interests of developers.
4. Mr. Griffis has consistently ruled that non-conforming uses and structures can be expanded as a matter-of-right in buildings built before 1958. These rulings are in direct contradiction to the stated intent of the general provisions of the zoning code.

Below are four cases which illustrate Mr. Griffis' bias against appeals from ANC 6A, and how his narrow readings of zoning code violate the intent of the Code's general provisions.

BZA #16934

In BZA #16934, ANC 6A lost its appeal on technical grounds because the foundation permit was appealed, rather than the building permit. The BZA under Griffis did not allow the appeal to be amended to include the building permit, even though the foundation permit clearly stated that it was intended to support a three-story structure.

It was the BZA's position that allowing the ANC to amend the appeal would substantially harm the appellant because the developer continued construction based on ANC 6A's technical error. Even though this error was easily correctable, Mr. Griffis made it clear that he thought the BZA was under no obligation to inform ANC 6A that this error would jeopardize their appeal and should be corrected. BZA case #16934 clearly demonstrates how Mr. Griffis uses minor technical issues to prevent the merits of ANC appeals from being heard and how he expects average citizens to have the expertise and knowledge of full-time land-use lawyers.

BZA #17468-A

In BZA #17468-A, a developer subdivided a three-unit building into 6 units, even though the property did not have per unit minimum square footage of 900 square feet. The BZA held that the 900 sq. ft. per unit requirement was only applicable to single family homes converted to multi-unit dwellings after 1958, and that because this building was converted prior to 1958, the developer could have subdivided the building into as many units as desired. This interpretation clearly contradicts the guidance on the intent and application of Section 101.1b of the Zoning Code, which states that the provisions are intended to "prevent undue concentration of population and the overcrowding of land". If Mr. Griffis and the BZA had interpreted the specific provision of the code with this intent in mind, they would have reached the opposite ruling. This case clearly shows how Mr. Griffis reaches decisions which violate the intent of the zoning code and how he fails to require developers to obtain special exceptions and variances to expand non-conforming uses.

BZA #17526

In BZA Case #17526, ANC 6A appealed building permits because the developer expanded a non-conforming structure by converting a single-family dwelling into a flat without providing an off-street parking spot (in an R-4 zone, a two-unit residential structure requires one parking space). The BZA ruled that conversion to a two-unit flat was allowed as a matter-of-right because the building should be credited with one parking space (even though none exists) because the structure existed prior to 1958. This case clearly demonstrated Mr. Griffis' misguided attitude toward matter-of-right expansion of non-conforming uses and his penchant for using tortured arguments that ignore the intent of the zoning law.

BZA #17532

In BZA Case #17532, Mr. Griffis' BZA granted an appeal to AppleTree charter school that disregarded the intent of the emergency rulemaking in Zoning Commission Order #06-06, which was to subject "public schools" not meeting the minimum lot

requirements to a special-exception process. In their decision, the BZA also allowed AppleTree to reduce the number of required parking spaces in a non-conforming structure from 6 to 3, in clear contradiction of the regulations promulgated in Title 11 §206.1. The BZA's ruling permitted the appellant to use a non-conforming structure as a charter school in an R-4 zone without going through the special exception process that would have required community input. Furthermore, the decision contradicts the intent of the Zoning Regulations by granting more rights to owners of non-conforming structures than to owners of conforming structures. This case once again demonstrates Mr. Griffis' misguided attitude toward matter-of-right expansion of non-conforming uses and his penchant for making unfounded rulings to allow developers to evade the intent of zoning laws.

As can be seen from these examples, Mr. Griffis has consistently demonstrated a hostility to ANCs and lay citizens in front of the BZA, and he frequently ignores the spirit of zoning regulations when issuing rulings that favor developers over the community. We strongly urge you to withdraw Mr. Griffis' nomination and nominate an individual who will uphold the intent and letter of the zoning regulations and allows the input of all of the District's residents.

If you have any questions about this letter, please contact the Chair of ANC 6A, Joseph Fengler, at 202-423-8868.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "David Holmes", written in a cursive style.

David Holmes
Vice Chair, ANC 6A