



February 10, 2017

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustment
Board of Zoning Adjustment
441 4th St. NW, Suite 210
Washington, DC 20001

Re: BZA Case No. 19355 (600 Ninth (9th) Street, NE)

Dear Mr. Moy:

At a regularly scheduled and properly noticed meeting on February 9, 2017,¹ our Commission voted 6-0 (with 5 Commissioners required for a quorum) to support the request for the owners of 600 Ninth (9th) Street NE, subject to two conditions. Specifically, the applicant seeks variances from the non-conforming structure requirements of Subtitle C § 202.2, the lot occupancy requirements of Subtitle E § 304.1, and the rear yard requirements of Subtitle E § 306.1, to permit the location of multiple decks over an existing rear-attached garage in the RF-1 Zone.

The Commission supports the request under these unique circumstances subject to the following conditions, which have been agreed to by the applicant:

1. Use of the lower deck (which is level to the second floor windows of 812 F St. NE) shall cease by 10 pm. Use of the upper deck (which is above the roof line of 812 F St. NE) shall cease by 11 pm. Should exceptions be needed or desired, 600 9th Street NE owners will discuss with 812 F Street, NE owner to seek permission, which may be reasonably accommodated. Should property owners of 600 9th Street NE and 812 F Street NE (current or future) discuss and mutually agree that these accommodations are no longer necessary, these restrictions may be voided.
2. Assuming the owners of 600 9th St. NE are granted a variance by the BZA, they will apply for permits within 30 days of BZA approval to move the 5 ton HVAC unit currently housed on the second floor deck to the roof. This unit will be moved as soon as feasible upon receipt of any necessary permits. As the 1.5 ton HVAC unit on this deck is currently too old to move, owners of 600 9th St. NE will move this unit to the roof when it is replaced at the end of its useful life, or within 10 years, whichever is sooner.

The situation requiring the relief being sought is unusual. The relief is for existing decks that were built by a previous owner of the residence, approximately a decade ago. This illegal work resulted in stop-work orders being recorded at the DC Department of Consumer and Regulatory Affairs (DCRA). These stop-work orders were never lifted, and the current owners became aware of them when only after obtaining possession of the property when they attempted to get permits for unrelated interior work on the residence.

By enforcing a stop-work order on completely unrelated work being undertaken by someone who did not have the stop-work order issued against them in the first place, DCRA has placed a high burden on the home owners who inherited this challenging situation through no fault of their own.

¹ ANC 6A meetings are advertised electronically on the anc6a-announce@yahoogroups.com, anc-6a@yahoogroups.com, and newhilleast@yahoogroups.com, at www.anc6a.org, and through print advertisements in the Hill Rag.



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ANC6A strongly opposes illegal construction and supports DCRA's efforts to stop or prevent construction that is not in compliance with existing code and zoning regulations. However, in this instance, whether or not the zoning relief being sought is granted or rejected, the decks will remain at 600 Ninth (9th) Street NE. Because of this, despite the strong and warranted opposition of neighbors due to the poor aesthetics of the decks, and noise and privacy issues that they cause to the immediate neighbor, the only public good that ANC6A sees resulting from this is if the decks are inspected to ensure their safety and their use restricted to minimize the potential impact on nearby neighbors. That inspection will only occur if the decks are officially permitted and such conditions may only be imposed via a Board Order, which is why ANC6A supports the request for zoning relief. If the variances are denied, the Commission fears that the decks will remain and eventually could become a greater concern for the owners and neighbors.

Please be advised that Brad Greenfield and I are authorized to act on behalf of ANC 6A for the purposes of this case. I can be contacted at philanc6a@gmail.com and Mr. Greenfield can be contacted at brad.greenfield@gmail.com.

On Behalf of the Commission,

Phil Toomajian
Chair, Advisory Neighborhood Commission 6A