



Government of the District of Columbia
**Advisory Neighborhood
Commission 6C**

July 21, 2017

Anthony J. Hood
Chair
Zoning Commission
of the District of Columbia
441 4th Street, NW
Suite 210-S
Washington, DC 20001

Re: Comments on proposed rulemaking ZC 14-11E (rear-yard extensions)

Dear Chairman Hood:

On July 12, 2017, at a duly noticed, regularly scheduled monthly meeting of ANC 6C, with a quorum of 6 out of 6 commissioners and the public present, the Commission voted 6-0 to submit this letter stating our views in case ZC 14-11E.

ANC 6C opposes the proposed text amendment in the strongest possible terms. We do so for two distinct reasons.

First, the purported justification for changing “an” to “any” is utterly baseless. If a proposed rear extension of an applicant’s principal dwelling would extend more than 10 feet past one neighboring dwelling but not the other, then the proposed extension indisputably would extend an excessive distance past “an” adjoining property. It is irrelevant that some permit applicants argue the contrary to DCRA because their argument ignores the plain English meaning of the text. Simply put, there is no ambiguity in need of correction.

Second, this change is not harmless as currently crafted. Specifically, nothing in the proposed rulemaking speaks to its effective date. If there is reason to take seriously the nonsensical arguments discussed above, then DCRA would—assuming adoption of the 14-11E text—face far more credible arguments that the change in language implies a change in substantive meaning. This in turn would give rise to an argument that there are three distinct periods at issue:

- the period prior to the Register publication date of Order 14-11B (in which no “pop-back” restriction applies);
- the period between 14-11B publication and 14-11E publication (in which applicants would claim, as above, that they do not run afoul of 14-11B so long as their proposed addition is less than 10 feet past at least one adjacent dwelling); and

- the period starting with 14-11E publication (in which all extensions more than 10 feet past any adjacent dwelling would be subject to BZA review).

This is not a frivolous objection. Approving the rulemaking in its present form would not only result in an unduly complicated regulatory scheme, but also erode and delay the homeowner protections Order 14-11B sought to create in the first place.

Accordingly, we urge the Commission to reject the proposed text amendment in its current form. However, if the Commission is determined to adopt it instead, we strongly recommend that the resulting order make clear that these changes—because they do not substantively alter the meaning of the original rulemaking—are effective as of the same date as Order 14-11B itself.

Thank you for giving great weight to the views of ANC 6C.

Sincerely,

A handwritten signature in black ink that reads "Karen J. Wirt". The signature is written in a cursive, flowing style.

Karen Wirt
Chair, ANC 6C