

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
Z.C. CASE NO. 19-14¹
(Text Amendment - Subtitles C, D, E, F, and X of Title 11 DCMR)
(Nonconforming Structures)
May 11, 2020

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Repl.)) and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its amendment of the following provisions of Title 11 of the District of Columbia Municipal Regulations (Zoning Regulations of 2016 [Zoning Regulations], to which all references are made unless otherwise specified):

- Subtitle C (General Rules) § 202.2
- Subtitle D (Residential House (R) Zones) §§ 306.4, 706.4, 1006.3, 1206.4, 5007, 5108, 5200, 5201, and 5204
- Subtitle E (Residential Flat (RF) Zones) §§ 205.5, 5007, 5108, 5200, 5201, and 5204
- Subtitle F (Residential Apartment (RA) Zones) §§ 5005, 5107, 5200, 5201, and 5204
- Subtitle X (General Procedures) § 1001.3

Description of the Amendment

The text amendment clarifies the zoning treatment of enlargements and additions to nonconforming structures. In particular, in Subtitle C § 202.2, the text amendment clarifies that nonconforming structures are permitted to expand as a matter of right so long as the enlargement or addition conforms to the development standards. Where non-compliant, zoning relief would be needed from applicable development standards of each subtitle and not from Subtitle C § 202.2 specifically. Although focused on nonconforming structures, the text amendment also changes the relief required for principal residential developments on substandard record lots as well as clarifies and reorganizes the special exception provisions in Subtitles D-F, as follows:

- Subtitle D, Chapter 52: to remove the current reference to relief from Subtitle C § 202.2; to clarify which development standards are eligible for special exception relief and under what criteria; and to consolidate all special exception authority in this chapter by deleting current §§ 5007, 5108, and 5204;
- Subtitle E, Chapter 52: to remove the current reference to relief from Subtitle C § 202.2; to clarify which development standards are eligible for special exception relief and under what criteria; and

¹ For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 12-08C.

to consolidate all special exception authority in this chapter by deleting current §§ 5007, 5108, and 5204;

- Subtitle F, Chapter 52: to clarify which development standards are eligible for special exception relief; and to consolidate all special exception authority in this chapter by deleting current §§ 5005, 5107, and 5204; and
- Subtitle X, Chapter 10: to remove the reference to Subtitle C § 202.2 as relief from that section is no longer required.

Procedures Leading to the Adoption of the Amendment

Office of Planning (OP)

OP filed a July 18, 2019, report that served as the pre-hearing report required by Subtitle Z § 501 and as a petition proposing text amendments to the Zoning Regulations. The Commission voted at its July 29, 2019, public meeting to set down the proposed text amendment for a public hearing and authorized flexibility for OP to work with the Office of the Attorney General (OAG) to refine the proposed text and add any conforming language as necessary.

OP filed an October 30, 2019 hearing report, as required by Subtitle Z § 400.6, that recommended approval of the proposed text amendment as advertised in the Public Hearing Notice.

At its November 7, 2019 hearing, the Commission heard testimony from OP in support of the proposed text amendment and from ANC 6C, which was supportive of the text amendment but highlighted specific provisions for further revision, as discussed below.

In response to concerns raised by ANCs 6B and 6C, as well as by the Commission, that the proposed amendment did not address existing ambiguities in the Zoning Regulations, especially the provisions related to building height special exceptions (Subtitle E § 5203) and rooftop or upper floor additions (Subtitle E § 206.1), OP submitted a November 25, 2019 supplemental report (OP Second Report). The OP Second Report indicated that most of the existing problematic text provisions are included in two text amendments currently before the Commission – Z.C. Case No. 19-13 (Alley Lots) or Z.C. Case No. 19-21 (Roof Top or Upper Floor Elements) – and are less suited to resolution in this Z.C. Case No. 19-14.

ANC Reports

ANC 5D filed a November 12, 2019 written report expressing support for the proposed text amendment's expanded protection of solar panels.

ANC 6B filed an October 29, 2019 written report in support of the proposed text amendment but also recommended changes including:

- Retaining Subtitle E § 5204, a special exception related to alley lots, rather than consolidating alley lot and non-alley lot standards into a revised Subtitle E § 5201 as proposed;
- Further refinements to the proposed text in Subtitle E § 5201; and
- Improvements to the Office of Zoning user handbook (although not related to the specific text amendment and outside the Commission's purview).

ANC 6C filed a November 6, 2019 written report (ANC 6C's First Report) and provided testimony at the November 7, 2020 public hearing in support of the proposed text amendments but also recommending changes including:

- Relief for new principal residential buildings on standard lots (found in proposed text in Subtitle E § 5201);
- Syntax concerns with the proposed text of Subtitle E § 5201.6 and Subtitle F § 5201.6; and
- Repetition and circularity between existing Subtitle E § 206.1 and the zoning relief found in Subtitle E § 5203, for which ANC 6C recommended several modifications to improve the clarity of these sections.

In response to OP's Second Report, ANC 6C filed a supplemental report (ANC 6C's Second Report), in which the ANC agreed with OP that most of the issues raised in ANC 6C's First Report could be addressed in pending Z.C. Case No. 19-21 rather than in Z.C. Case No. 19-14.

At its public hearing on November 7, 2020, the Commission requested that OP provide a detailed response to the issues raised by ANC 6B's and ANC 6C's reports and to specifically identify which pending Commission cases would address these concerns. Upon review of OP's and ANC's Second Reports, the Commission agreed with OP and ANC 6C that the concerns raised by the ANCs were being addressed by pending Z.C. Case No. 19-21 rather than Z.C. Case No. 19-14.

At its public meeting on January 13, 2020, the Commission voted to take **PROPOSED ACTION** and to authorize the publication of a Notice of Proposed Rulemaking:

Proposed Action

VOTE (January 13, 2020): 5-0-0 (Anthony J. Hood, Peter A. Shapiro, Robert E. Miller, Peter G. May, Michael G. Turnbull to **APPROVE**)

Notice of Proposed Rulemaking

The Commission published the proposed amendment as a Notice of Proposed Rulemaking (NOPR) in the *D.C. Register* (67 DCR 3807, *et seq.*) on April 3, 2020.

No comments were received in response to the NOPR within the thirty- (30) day period required by § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968. (82 Stat. 1206, as amended; D.C. Official Code § 2-505 (2013 Repl.).)

National Capital Planning Commission (NCPC)

The Commission referred the proposed amendment to NCPC for the thirty (30)-day review period required by § 492 of the District Charter on January 16, 2020.

NCPC filed a report dated February 6, 2020, stating that NCPC had determined, pursuant to delegated authority, that the proposed amendment was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any identified federal interests. (Exhibit ["Ex."]13.)

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Y § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).)

The Commission finds OP’s recommendation that the Commission take final action to adopt the text amendment persuasive and concurs in that judgment.

“Great Weight” to the Written Report of the ANCs

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

The Commission finds the reports of ANCs 5D, 6B, and 6C persuasive in their support for the text amendment, with the concerns of ANCs 6B and 6C being addressed in Z.C. Case No. 19-21 pending before the Commission, and concurs with the ANCs in that judgement to approve the text amendment.

At its public meeting on May 11, 2020, the Commission voted to take **FINAL ACTION** and to authorize the publication of a Notice of Final Rulemaking:

Final Action

VOTE (May 11, 2020): **5-0-0** (Peter A. Shapiro, Anthony J. Hood, Robert E. Miller, Peter G. May, Michael G. Turnbull to **APPROVE**)

The following amendments to the text of the Zoning Regulations are hereby adopted):

I. Amendments to Subtitle C, GENERAL RULES

Subsection 202.2 of § 202, NONCONFORMING STRUCTURES, of Chapter 2, NONCONFORMITIES, of Subtitle C, GENERAL RULES, is amended to read as follows:

202.2 Enlargements or additions may be made to the structure; provided that the addition or enlargement itself shall:

- (a) Conform to the use and development standards;

- (b) Neither increase nor extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined; and
- (c) Any enlargement or addition not meeting paragraphs (a) and (b) must obtain relief from the applicable development standards.

II. Amendments to Subtitle D, RESIDENTIAL HOUSE ZONES

Subsection 306.4 of § 306, REAR YARD, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is revised to read as follows:

306.4 A rear wall of a row or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on any adjacent property if approved as a special exception pursuant to Subtitle X, Chapter 9, and subject to Subtitle U § 5201 if applicable.

Subsection 706.4 of § 706, REAR YARD, of Chapter 7, NAVAL OBSERVATORY RESIDENTIAL HOUSE ZONES – R-12 AND R-13, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is revised to read as follows:

706.4 A rear wall of a row or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on any adjacent property if approved as a special exception pursuant to Subtitle X, Chapter 9, and subject to Subtitle U § 5201 if applicable.

Subsection 1006.3 of § 1006, REAR YARD, of Chapter 10, FOGGY BOTTOM RESIDENTIAL HOUSE ZONES – R-17, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is revised to read as follows:

1006.3 A rear wall of a row or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on any adjacent property if approved as a special exception pursuant to Subtitle X, Chapter 9, and subject to Subtitle U § 5201 if applicable.

Subsection 1206.4 of § 1206, REAR YARD, of Chapter 12, GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is revised to read as follows:

1206.4 A rear wall of a row or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential

building on any adjacent property if approved as a special exception pursuant to Subtitle X, Chapter 9, and subject to Subtitle U § 5201 if applicable.

Section 5007, SPECIAL EXCEPTION, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is deleted in its entirety.

Section 5108, SPECIAL EXCEPTION, of Chapter 51, ALLEY LOT REGULATIONS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is deleted in its entirety.

The title of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended to read as follows:

CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES

Section 5200, GENERAL PROVISIONS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended to read as follows:

- 5200.1 The provisions of this chapter provide for special exception relief from the specified development standards and regulations, subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.
- 5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception authorized by this chapter shall be processed as a variance pursuant to Subtitle X, Chapter 10.

The title of § 5201, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended to read as follows:

5201 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

Section 5201, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR R ZONES, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended by revising the existing subsections and by adding new §§ 5201.3 and 5201.7 and renumbering, to read as follows:

5201.1

For an addition to a principal residential building with one (1) principal dwelling unit on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy subject to the following table:

TABLE D § 5201.1(a): MAXIMUM PERMITTED LOT OCCUPANCY BY SPECIAL EXCEPTION

Zone	Maximum Lot Occupancy
R-3, R-13, and R-17 R-20 - Row dwellings	70%
R-20 - Detached and semi-detached dwellings All other R zones	50%

- (b) Yards, including alley centerline setback; and
- (c) Pervious surface.

5201.2

For a new or enlarged accessory structure to a residential building with only one (1) principal dwelling unit on a non-alley lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy subject to the following table:

TABLE D § 5201.2(a): MAXIMUM PERMITTED LOT OCCUPANCY BY SPECIAL EXCEPTION

Zone	Maximum Lot Occupancy
R-3, R-13, and R-17 R-20 - Row dwellings	70%
R-20 - Detached and semi-detached dwellings All other R zones	50%

- (b) Maximum building area of an accessory building;
- (c) Yards, including alley centerline setback; and

(d) Pervious surface.

5201.3 For a new or enlarged principal building on an Alley Record Lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

(a) Yards, including alley centerline setback; and

(b) Pervious surface.

5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new principal building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

(a) The light and air available ...²

(b) The privacy of use and enjoyment ...

(c) The proposed addition or accessory structure, together with the original building, or the new principal building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street or alley frontage; and

(d) In demonstrating compliance with paragraphs ... from public ways.

5201.5 The Board of Zoning Adjustment may require ...

5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories as a special exception.

5201.7 Where an application requests relief from the alley centerline setback requirements under this section, the Office of Zoning shall refer the application to the following agencies for their review and recommendations, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211:

(a) District Department of Transportation (DDOT);

(a) Department of Public Works (DPW);

(b) Metropolitan Police Department (MPD);

² The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

- (c) Fire and Emergency Medical Services Department (FEMS);
- (d) DC Water (WASA); and
- (e) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

Section 5204, SPECIAL EXCEPTION CRITERIA ALLEY LOTS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is deleted to read as follows.

5204 [RESERVED]

III. Amendments to Subtitle E, RESIDENTIAL FLAT ZONES

Subsection 205.5 of § 205, REAR YARD, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is revised as follows:

205.5 A rear wall of a row or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any principal residential building on any adjacent property if approved as a special exception pursuant to Subtitle X, Chapter 9, and subject to Subtitle U § 5201 if applicable.

Section 5007, SPECIAL EXCEPTION, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RF ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is deleted in its entirety.

Section 5108, SPECIAL EXCEPTION, of Chapter 51, ALLEY LOT REGULATIONS, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is deleted in its entirety.

The title of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is amended to read as follows:

CHAPTER 52 RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES

Section 5200, GENERAL PROVISIONS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is amended to read as follows:

- 5200.1 The provisions of this chapter provide for special exception relief from the specified development standards and regulations, subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.
- 5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception authorized by this chapter shall be processed as a variance pursuant to Subtitle X, Chapter 10.

The title of § 5201, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is amended to read as follows:

5201 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

Section 5201, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is amended by revising the existing subsections and by adding new §§ 5201.3 and 5201.7 and renumbering, to read as follows:

- 5201.1 For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:
- (a) Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
 - (b) Yards, including alley centerline setback;
 - (c) Courts; and
 - (d) Pervious surface.

- 5201.2 For a new or enlarged accessory structure to a residential building with one (1) principal dwelling unit on a non-alley lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:
- (a) Lot occupancy under Subtitle E § 5003 up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
 - (b) Yards, including alley centerline setback;
 - (c) Courts; and
 - (d) Pervious surface.
- 5201.3 For a new or enlarged building on an Alley Record Lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:
- (a) Yards, including alley centerline setback; and
 - (b) Pervious surface.
- 5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:
- (a) The light and air available ...
 - (b) The privacy of use and enjoyment ...
 - (c) The proposed addition or accessory structure, together with the original building, or the proposed new building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street and alley frontage; and
 - (d) In demonstrating compliance with paragraphs ... from public ways.
- 5201.5 The Board of Zoning Adjustment may require ...
- 5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.

5201.7 Where an application requests relief from the alley centerline setback requirements under this section, the Office of Zoning shall refer the application to the following agencies for their review and recommendations, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211:

- (a) District Department of Transportation (DDOT);
- (a) Department of Public Works (DPW);
- (b) Metropolitan Police Department (MPD);
- (c) Fire and Emergency Medical Services Department (FEMS);
- (d) DC Water (WASA); and
- (e) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

Section 5204, SPECIAL EXCEPTION CRITERIA ALLEY LOTS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RF ZONES, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is deleted to read as follows:

5204 [RESERVED]

IV. Amendments to Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES

The title of Chapter 50, ACCESSORY BUILDING REGULATIONS (RA) ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended to read as follows:

Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RA ZONES

Section 5005, SPECIAL EXCEPTION, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RA ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is deleted in its entirety.

The title of Chapter 51, ALLEY LOT REGULATIONS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended to read as follows:

Chapter 51, ALLEY LOT REGULATIONS FOR RA ZONES

Section 5107, SPECIAL EXCEPTION, of Chapter 51, ALLEY LOT REGULATIONS FOR RA ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is deleted in its entirety.

The title of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended to read as follows:

Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RA ZONES

Section 5200, GENERAL PROVISIONS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RA ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended to read as follows:

- 5200.1 The provisions of this chapter provide for special exception relief to the specified development standards and regulations as a special exception, subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.
- 5200.2 Requested relief that does not comply with specific conditions or limitations of a special exception authorized by this chapter shall be processed as a variance pursuant to Subtitle X, Chapter 10.

The title of § 5201, ADDITION TO A BUILDING OR ACCESSORY STRUCTURE, of Chapter 52, ACCESSORY BUILDING REGULATIONS FOR RA ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended to read as follows:

5201 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS

Section 5201, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Chapter 52, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended by revising the existing subsections and by adding new §§ 5201.3 and 5201.7 and renumbering, to read as follows:

- 5201.1 For an addition to a principal residential building on a non-alley lot or for a new principal residential building on a substandard non-alley record lot as described by Subtitle C § 301.1, the Board of Zoning Adjustment may grant relief from the following development standards of this subtitle as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9.
- (a) Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;

- (b) Yards, including alley centerline setback;
- (c) Courts; and
- (d) Green Area Ratio.

5201.2 For a new or enlarged accessory structure to a residential building with one (1) principal dwelling unit on a non-alley lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Lot occupancy up to a maximum of seventy percent (70%) for all new and existing structures on the lot;
- (b) Yards, including alley centerline setback;
- (c) Courts; and
- (d) Green Area Ratio.

5201.3 For a new or enlarged building on an Alley Record lot, the Board of Zoning Adjustment may grant relief from the following development standards as a special exception, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

- (a) Yards, including alley centerline setback; and
- (b) Green Area Ratio.

5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new building, or accessory structure, shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

- (a) The light and air available ...
- (b) The privacy of use and enjoyment ...
- (c) The proposed addition or accessory structure, together with the original building, or the-new building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street and alley frontage; and
- (d) In demonstrating compliance with paragraphs... from public ways.

- 5201.5 The Board of Zoning Adjustment may require ...
- 5201.6 This section shall not be used to permit the introduction or expansion of a nonconforming use, lot occupancy beyond what is authorized in this section, height, or number of stories, as a special exception.
- 5201.7 Where an application requests relief from the alley centerline setback requirements under this section, the Office of Zoning shall refer the application to the following agencies for their review and recommendations, to be filed in the case record within the forty- (40) day period established by Subtitle A § 211:
- (a) District Department of Transportation (DDOT);
 - (a) Department of Public Works (DPW);
 - (b) Metropolitan Police Department (MPD);
 - (c) Fire and Emergency Medical Services Department (FEMS);
 - (d) DC Water (WASA); and
 - (e) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).

Section 5204, SPECIAL EXCEPTION CRITERIA ALLEY LOTS, of Chapter 52, SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is deleted to read as follows:

5204 [RESERVED]

V. Amendment to Subtitle X, GENERAL PROCEDURES

Subsection 1001.3 of § 1001, VARIANCE TYPES, of Chapter 10, VARIANCES, of Subtitle X, GENERAL PROCEDURES, is amended as follows:

- 1001.3 Examples of area variances are requests to deviate from:
- (a) Requirements that ...
- ...

- (d) Limitations on the alteration or conversion of certain structures on alley lots as stated in Subtitle D § 1610; Subtitle E § 1104; Subtitle F § 903; and Subtitle G § 1503; and
- (e) Preconditions to the establishment of ... a more intense use.

In accordance with the provisions of Subtitle Z § 604.9, this Notice of Final Rulemaking shall become final and effective upon publication in the *D.C. Register*; that is, on July 3, 2020.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING