

**Preliminary statement in the
Appeal by the Citizens Association of Georgetown
of the approval of Building Permit No. B1010202
by the Office of the Zoning Administrator**

RECEIVED
D.C. OFFICE OF ZONING
2011 OCT 25 PM 2:57

DCRA Permit record information:

B1010202
1525 WISCONSIN AVE NW
Square 1271 0813
Construction/ Addition
2011/08/26
Permit Issued
2011/08/26
NEW DORMER AT FRONT FACADE SHED DORMER AT REAR NEW TWO STORY
REAR BUILDING

The following construction permit for interior work at the same premises is presented for reference but this permit is not part of the actual appeal:

B1008721
1525 WISCONSIN AVE NW Square 1271 Lot 0813
Construction/Alteration and Repair
2010/08/05
Permit Issued
2010/08/05
INTERIOR RENOVATIONS TO SINGLE FAMILY DWELLING ON 2ND FL AND ATTIC.
Interior demo in basement and 1st floor. All interior work except AC unit on rear roof.

Summary

The plans that were approved for the building permit contain the following are contrary to the Zoning regulations as follows:

1. A Percent of Lot Occupancy violation on the first floor (89% where 60% is allowed)
2. A Percent of Lot Occupancy violation on the second floor (79% where 60% is allowed)
3. A Court violation on the second floor (width of 11'- 4 1/2" where minimum width of 12' - 0" is required)

In reaching this conclusion we relied on the following regulations, amongst others:

DCMR 11, Section 199 DEFINITIONS.

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO. 18321

EXHIBIT NO. 3

Percentage of lot occupancy - a figure that expresses that portion of a lot lying within lot lines and building lines that is occupied or that may be occupied under the provisions of this title as building area; except as provided in the Waterfront Districts wherein lot occupancy shall be calculated in accordance with § 932, and Mixed Use Districts wherein the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin. (21 DCR 1030aa, 21 DCR 1423.51, DCR 3440 and 52 DCR 6358)

Board of Zoning Adjustment
District of Columbia
CASE NO.18321
EXHIBIT NO.3

Court - an unoccupied space, not a court niche, open to the sky, on the same lot with a building, which is bounded on two (2) or more sides by the exterior walls of the building or by two (2) or more exterior walls, lot lines, or yards. A court may also be bounded by a single curved wall of a building. (28 DCR 4192)

Court, closed - a court surrounded on all sides by the exterior walls of a building, or by exterior walls of a building and side or rear lot lines, or by alley lines where the alley is less than ten feet (10 ft.) in width.

Court, height of - the vertical distance from the lowest level of the court to the highest point of any bounding wall.

Court, length of - the mean horizontal distance between the open and closed end of an open court or the greater horizontal dimension of a closed court.

Court niche - an indentation, recess, or decorative architectural treatment of the exterior wall of a building, not a court, which opens onto a street, yard, alley, or court. (28 DCR 4192)

Court niche, depth of - the greatest distance between the sides of the court niche, measured perpendicular to the line delineating the width of court niche. (28 DCR 4192)

Court niche, width of - the distance between the two (2) points created by the intersection of the sides of the court niche and the sides of the court, yard, street, or alley it abuts. (28 DCR 4192)

Court, open - a court opening onto a street, yard, or an alley not less than ten feet (10 ft.) wide.

Court, width of - the minimum horizontal dimension substantially parallel with the open end of an open court or the lesser horizontal dimension of a closed court; or, in the case of a non-rectangular court, the diameter of the largest circle that may be inscribed in a horizontal plane within the court. (28 DCR 4192)

DCMR 11, Section 772 PERCENTAGE OF LOT OCCUPANCY (C)

772.1 In a Commercial District, no building or portion of a building devoted to a residential use, including accessory buildings but excluding hotels, shall occupy the lot upon which it is located in excess of the percentage of lot occupancy in the following table:

DCMR 11, Section 776 COURTS

776.1 Where a court is provided for a building or portion of a building devoted to nonresidential uses, at any elevation in the court, the width of court shall be a minimum of three inches per foot (3 in./ ft.) of height, measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than twelve feet (12 ft.).

ZONE DISTRICT MAXIMUM PERCENTAGE OF LOT OCCUPANCY

C-1	60%
C-2-A	60%
C-3-A	75%
C-2-B, C-2-C	80%
C-3-B, C-3-C, C-4, C-5 (PAD)	100%

Also referenced (and attached) is a BZA order wherein it is clear that if the entrance to a upper level residential use is located on the ground floor of building in Commercial District then the restriction in Section 772.1 comes into effect. Please see Order No. 17571, Page No. 3, Item 11 (pertinent sections highlighted). Importantly, in reviewing orders where Section 772.1 is cited, no references that contradicted this interpretation were found.

In the proposed renovations to 1525 Wisconsin Avenue, the residential unit is located on the second and third floor with a new, enclosed and rated stairway leading to the street and to a dedicated entrance on the front façade. This dedicated entryway with a separate front door on the front façade of the building clearly establishes the residential use on this first floor level of the building.

Thus all the floors first of this building must be restricted to 60% lot occupancy. The first floor is calculated by me at at 88.5% and is listed on Zoning Data Summary included in the permit package as 86.89%. The second floor is calculated by use as 79% and liberally as 68%.

The difference between these last two lot coverage calculations lies in whether or not the portion of the first floor in the center of the new proposed building (an existing historic, two-story wing from which the second floor is proposed to be removed as part of the project) that rises above the level of the second floor by some 6 ft to 8 ft is considered part of the Building Area of the second floor and thus not part of the adjacent open court. We contend that though it may not meet the definition of Gross Floor Area and should not be factored into FAR, it should be considered Building Area since it obstructs light and ventilation to the second floor areas both to the front and to the rear of the proposed project, and to the adjacent building to the north.

In any case the second floor is clearly also in violation of the allowed Percentage of Lot Occupancy.

With regard to the Court violation, the re is in the proposed plans a close court on the second floor in the center of the building. This court is defined on one side by the property line and on the other three sides by the exterior walls of the building. This represents a violation in that width of the court is only be 11'-4 1/2" wide which is less than the 12'-0" minimum required by section 776.1. Furthermore the discrepancy of 7 1/2" is less than 2% flexibility allowance by the Zoning Administrator permitted in the zoning regs.

These issues will be further detailed in reference to the plans submitted by the applicant in conjunction with the building permits issued. We look forward to reviewing this matter with the Board of Zoning Adjustment.

Thank you.