



Single Member District Commissioners
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07- Victor Silveira * 08-Catherine May * 09-Nancy
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Regarding Appeal of Lawrence and Kathleen Ausubel, BZA Appeal No. 18577

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Board of Zoning Adjustment
District of Columbia
CASE NO.18577
EXHIBIT NO.25

of a "front yard", which does not exist in the regulations as promulgated by the City Council of the District of Columbia, and

WHEREAS, the Zoning Administrator further decided that, unlike the rear yard and side yard provided for in the Zoning Regulations, the "front yard" contains no restrictions on the height or placement of structures within it; and

WHEREAS, 11 DCMR 199 defines a "side yard" as "a yard between any portion of a building or other structure and the adjacent side lot line, extending for the full depth of the building or structure," under which definition the CT cabinet is in the side yard of the main building at 2750 32nd St. NW, and

WHEREAS, 11 DCMR 199 of the Zoning Regulations defines a "structure" to include retaining walls, under which definition the CT cabinet is in the side yard of the retaining wall at 2750 32nd St. NW, and

WHEREAS, in order to justify withdrawing the Notice of Violation and Notice to Abate bearing Control Number CEL1300001, the Zoning Administrator ignored the plain language of the Zoning Regulations and found that only the main building on a property—and not an auxiliary structure such as a retaining wall—defines a side yard; and

WHEREAS, the ANC is concerned that the Zoning Administrator's creation of a "front yard" free of setback restrictions and the Zoning Administrator's avoidance of the zoning regulations defining side yards by auxiliary structures will adversely affect homeowners in ANC 3C by allowing the erection of structures which violate the side yard setback requirements, as these actions have adversely affected the owners of 2740 32nd St. NW; and

WHEREAS, the ANC believes that the Zoning Administrator exceeded his authority in creating a front yard free of setback requirements, when the zoning regulations are silent on front yards, that the Zoning Administrator exceeded his authority by ignoring the provisions of the zoning regulations which provide that auxiliary structures define side yards with setback requirements and that the Zoning Administrator therefore erred in concluding that the CT cabinet does not violate the side yard setback requirements.

THEREFORE BE IT RESOLVED that ANC 3C requests that the Board of Zoning Adjustment GRANT Appellant Lawrence and Kathleen Ausubel's Appeal No. 18577; and

BE IT FURTHER RESOLVED that the Commissioner for ANC 3C08, the Chair, or the Chair's designee, is authorized to represent the Commission on this matter.

Attested by



Victor Silveira
Chair, on June 17, 2013

This resolution was approved by a voice vote on June 17, 2013 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 9 commissioners) was present.