

Cochran, Patricia (DCOZ)

From: David Alpert <alpert@ggwash.org>
Sent: Wednesday, December 14, 2016 8:54 AM
To: DCOZ - BZA Submissions (DCOZ)
Subject: Comments in opposition to BZA #19374 Dupont Circle Citizens Association

Dear BZA,

I am writing with comments in opposition to BZA case #19374, the appeal of Dupont Circle Citizens Association.

I was surprised to read the DCCA prehearing statement, as it seems the entire case rests on a logical fallacy. DCCA is quite simply misreading the zoning text as written.

The DCCA statement says the definitions cited “fully define a cellar as a non-habitable room.” This is incorrect. Rather, it defines a “Habitable Room” for the purposes of the zoning code as one of a set of places not counting cellars (or bathrooms, or halls, etc.) - even if they are habitable in the colloquial sense of the word, they are explicitly excluded from being Habitable Rooms as defined in the code.

It’s somewhat like saying, “All snakes are reptiles, therefore all reptiles are snakes,” which is a logical fallacy. This is a related type of fallacy.

As an analogy, let’s say a seaside town wants to prohibit driving cars on the beach, so they pass a law, saying:

A Motor Vehicle may not be driven on the public beach, except those operated by police, medical personnel, or lifeguards on duty.

Motor Vehicle: A wheeled conveyance powered by an electric, combustion, or other motor. **The term “Motor Vehicle” shall not include toys.**

Now, if someone is driving a miniaturized toy truck on the beach, can the hypothetical Delaware Coast Citizens’ Association stop kids from playing with them?

The answer is no. The prohibition is on Motor Vehicles, and the definition specifically excludes toys. If something is a toy, therefore, it is not a Motor Vehicle for the purposes of the prohibition even if it is motorized and is a vehicle, because the second sentence explicitly excludes it.

But this hypothetical DCCA appeals, saying “Taken together, this language fully defines a toy as a non-motorized vehicle” and arguing that anything with a motor can’t be a toy. This interpretation would make no sense. Neither does the DCCA's interpretation of the cellar rules in this case.

As a policy matter, it is important to continue to allow housing (mostly) below grade. Cellar space is an important way to provide needed housing without significantly impacting the visible built environment. This space offers what is often lower cost housing, allows homeowners to rent out space to help pay a mortgage, and is a common feature in neighborhoods like Dupont Circle.

I urge the BZA to uphold the existing interpretation of the law. Thank you.

Board of Zoning Adjustment
District of Columbia
CASE NO.19374
EXHIBIT NO.36

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