

July 15, 1958

REPORT OF THE ZONING ADVISORY COUNCIL  
ON PROPOSED AMENDMENTS TO THE ZONING  
REGULATIONS

JULY 16, 1958, HEARING

"3201.26 An elevator or stairway penthouse may be erected to a height in excess of that authorized in the district in which located, provided such penthouse is set back from all lot lines of the structure upon which located a distance equal to its height above the roof of the structure."

"4201.22 An elevator or stairway penthouse may be erected to a height in excess of that authorized in the SP District provided such penthouse is set back from all lot lines of the building or other structure upon which located a distance equal to its height above the roof of the building or structure."

"5201.23 An elevator or stairway penthouse may be erected to a height in excess of that authorized in the district in which located, provided such penthouse is set back from all lot lines of the building or other structure upon which located a distance equal to its height above the roof of the building or structure."

"6201.22 An elevator or stairway penthouse may be erected to a height in excess of that authorized in the district in which located, provided such penthouse is set back from all lot lines of the building or other structure upon which located a distance equal to its height above the roof of the building or structure."

These proposed amendments relate to the location of elevator and stairway penthouses. Set back provisions of such appurtenances are contained in the Act of June 1, 1910, (36 Stat. 452), regulating the height of buildings in the District of Columbia. The Act provides that when above the limit of height, a penthouse, etc., shall be set back from the exterior walls of the building on which it is located a distance equal to its height above the adjacent roof. Under the regulations recently repealed, the application of this provision was construed by the Zoning Commission to mean exterior walls from the street sides only, an interpretation considered in harmony with the Act and not in violation thereof. While regulations promulgated by the Commission are subject to minimum standards provided by the Act of June 1, 1910, ample authority exists to incorporate more restrictive provisions into the regulations which has been done in numerous instances with respect to other provisions of the Act.

ZONING COMMISSION  
District of Columbia  
CASE NO.07-13  
EXHIBIT NO.73C

The principal difficulty encountered in applying the provision of the new regulations is that the required set back of penthouses from all outside walls of the building does not in many instances serve any useful purpose since a set back from yards or courts required or provided is unnecessary to protect light and air for adjoining properties. It is for this reason that modification of these paragraphs in some form appears fully justified.

There are several ways in which these paragraphs could be amended, each of which merits consideration. In addition to the method advertised for this hearing, the Commission might either apply the set back to only those sides of a building abutting public streets, or to only those sides of a building abutting public streets or alleys; or to only those sides of a building abutting public streets, alleys, or a lower height district. There appears to be more support from builders and architects for one of the latter methods than there is for adoption of the proposal now before the Commission. However, the Council is of the opinion that the method proposed here will more closely follow the intent of the 1910 Act and assure adequate light and air for adjoining properties under all conceivable circumstances, whereas adoption of one of the other methods might in some instances adversely affect adjoining structures. The amendment as proposed does not provide a remedy for every conceivable situation since there will be a few buildings on narrow lots which will be unable to provide the set back and must therefore be erected (with penthouse) within the total height envelope, such penthouse area counting as a part of the floor area ratio. Since these cases will be limited and since there is ample opportunity to conform because of the decreased bulk of buildings now required, it is believed that no material hardship will result.

For the reasons outlined, approval of the amendments as advertised is recommended.

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