

76-15

TEXT Amend.

76-15

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17285

EXHIBIT NO. 47

WITNESS CARD

76-15

i (14)

Name: JOHN McCABE

Address: 1666 ST NW zip 20006

PROPOSER

OPPOSER

2

10-15

Name: Arthur Fawcett

Address: 1335 20th St NW Zip 20007

PROPONENT with reservations OPPONENT _____

0000001



NATIONAL CAPITAL PLANNING COMMISSION

1325 G Street, N.W.
Washington, D. C. 20576



In Reply Refer To:
NCPC File No. 1637

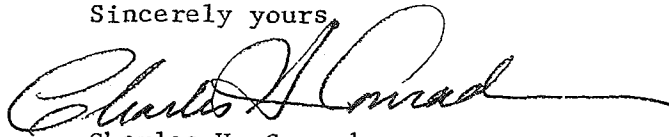
Zoning Commission for the
District of Columbia
District Building, Room 11
Washington, D.C. 20004

Gentlemen:

The National Capital Planning Commission, at its meeting on January 13, 1977, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), reported to the Zoning Commission for the District of Columbia on its proposed amendments to the Zoning Regulations of the District of Columbia relating to occupancy of yards (Zoning Commission Case No. 76-15), that the proposed amendment (1) would not be inconsistent with the Comprehensive Plan for the National Capital and (2) would not have a negative impact on the interests or functions of the Federal Establishment within the National Capital.

A copy of the Executive Director's Recommendation, as approved by the Commission, is enclosed for your information.

Sincerely yours,


Charles H. Conrad
Executive Director

Enclosure

1977 JAN 24 AM 8 53

DISTRICT OF COLUMBIA
ZONING COMMISSION

BH

NATIONAL CAPITAL PLANNING COMMISSION

WASHINGTON, D.C. 20516

NCPC File No. 1637

PROPOSED AMENDMENTS TO THE ZONING REGULATIONS
OF THE DISTRICT OF COLUMBIA
RELATING TO OCCUPANCY OF YARDS
(ZONING COMMISSION CASE NO. 76-15)

Executive Director's Recommendation

January 13, 1977

The Executive Director recommends that the Commission, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), report to the Zoning Commission for the District of Columbia on its proposed amendments to the Zoning Regulations of the District of Columbia relating to occupancy of yards (Zoning Commission Case No. 76-15), that the proposed amendment (1) would not be inconsistent with the Comprehensive Plan for the National Capital and (2) would not have a negative impact on the interests or functions of the Federal Establishment within the National Capital.

* * *

The proposed amendment would redefine the definition of a yard and specifically provide the kinds of buildings and structures that could be located in required side and rear yards.

The amendments to the text of the Zoning Regulations proposed by the Zoning Commission would require the following modifications.

1. Set a maximum limit of 50 per cent for the area of a required yard which may be covered by buildings or structures.
2. Allow structures less than 4 feet high to occupy a yard.
3. Allow fences and retaining walls.
4. Allow stairs leading to the yard from the main floor without reference to the height or projection.
5. Eliminate the special exception which would give the BZA discretion to approve greater occupancy of yards.

The thrust of these changes is to allow low structures, fences and stairs in yards as a matter-of-right with a restriction on occupancy to insure that at least 50 per cent of a yard is left open. The removal of the restriction on height and projection of stairs allows for greater architectural flexibility without resulting in negative impacts for adjoining properties. The elimination of the special exception avoids the creation of a review process for which it would be difficult to develop standards to judge applications. The BZA would, of course, retain its power to grant a variance from the strict application of these Regulations in specific cases where a practical difficulty or hardship exists.

1977 JAN 24 4Z NW 8 58

RECEIVED
DISTRICT OF COLUMBIA
NOV 13 1976

The complete text language for the revised proposal is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows: "An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations. No such building or structure shall occupy in excess of 50 per cent of a yard required by these Regulations.

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, no part of which is more than four feet above the grade at any point may occupy any yard required under the provisions of the Regulations. Any railing required by the Building Code shall not be calculated in the measurement of such height.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code.

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DISTRICT OF COLUMBIA
ZONING DEPARTMENT
2 -

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NATIONAL CAPITAL PLANNING COMMISSION

WASHINGTON, D.C. 20576

NCPC File No. 1637

PROPOSED AMENDMENTS TO THE ZONING REGULATIONS
OF THE DISTRICT OF COLUMBIA
RELATING TO OCCUPANCY OF YARDS
(ZONING COMMISSION CASE NO. 76-15)

Executive Director's Recommendation

January 13, 1977

agreed
vs
NCPC
1/13/77
[Signature]

The Executive Director recommends that the Commission, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), report to the Zoning Commission for the District of Columbia on its proposed amendments to the Zoning Regulations of the District of Columbia relating to occupancy of yards (Zoning Commission Case No. 76-15), that the proposed amendment (1) would not be inconsistent with the Comprehensive Plan for the National Capital and (2) would not have a negative impact on the interests or functions of the Federal Establishment within the National Capital.

* * *

The proposed amendment would redefine the definition of a yard and specifically provide the kinds of buildings and structures that could be located in required side and rear yards.

The amendments to the text of the Zoning Regulations proposed by the Zoning Commission would require the following modifications.

1. Set a maximum limit of 50 per cent for the area of a required yard which may be covered by buildings or structures.
2. Allow structures less than 4 feet high to occupy a yard.
3. Allow fences and retaining walls.
4. Allow stairs leading to the yard from the main floor without reference to the height or projection.
5. Eliminate the special exception which would give the BZA discretion to approve greater occupancy of yards.

The thrust of these changes is to allow low structures, fences and stairs in yards as a matter-of-right with a restriction on occupancy to insure that at least 50 per cent of a yard is left open. The removal of the restriction on height and projection of stairs allows for greater architectural flexibility without resulting in negative impacts for adjoining properties. The elimination of the special exception avoids the creation of a review process for which it would be difficult to develop standards to judge applications. The BZA would, of course, retain its power to grant a variance from the strict application of these Regulations in specific cases where a practical difficulty or hardship exists.

The complete text language for the revised proposal is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows: "An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations. No such building or structure shall occupy in excess of 50 per cent of a yard required by these Regulations.

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, no part of which is more than four feet above the grade at any point may occupy any yard required under the provisions of the Regulations. Any railing required by the Building Code shall not be calculated in the measurement of such height.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code.

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Government of the District of Columbia
ZONING COMMISSION



December 15, 1976

Charles Conrad
Executive Director
National Capital Planning
Commission
1325 "G" Street, N.W.
Washington, D.C. 20576

RE: Z.C. No. 76-15

Dear Mr. Conrad:

On December 9, 1976, the District of Columbia Zoning Commission took action on the attached proposal to amend the Zoning Regulations pertaining to the "Occupancy of Yards". This amendment redefines a yard and specifically provides what kind of buildings and structures could be located in required side and rear yards.

This proposed amendment is being transmitted to you for comment and review by the National Capital Planning Commission pursuant to Section 492(b) (2) of the District of Columbia Self-Government and Governmental Re-organization Act.

To assist in your review we are transmitting herewith the reports of the Municipal Planning Office relevant to the case.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur B. Hatton".
Arthur B. Hatton
Executive Secretary

Government of the District of Columbia

ZONING COMMISSION



Zoning Commission Case No. 76-15

Proposed Zoning Regulation Amendment
December 9, 1976

At its meeting of December 9, 1976, the District of District Zoning Commission approved the following proposed amendment to the D.C. Zoning Regulations:

1. Amend Section 1202, Definitions, to redefine a yard as follows:

"An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these regulations. No such building or structure shall occupy in excess of 50 per cent of a yard required by these Regulations".

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, no part of which is more than four feet above the grade at any point may occupy any yard required under provision of the Regulations. Any railing required by the Building Code shall not be calculated in the measurement of such height.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provision of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under provisions of these Regulations. Such stairs should include any railing required by the Building Code.

BY: 
Arthur B. Hatton
Executive Secretary

0000004

Government of the District of Columbia
EXECUTIVE OFFICE

Municipal Planning Office
District Building
Washington, D.C. 20004



November 17, 1976

M E M O R A N D U M

TO: D.C. Zoning Commission

FROM: Ben W. Gilbert, Director
Municipal Planning Office

RE: Zoning Commission Case No. 76-15 (Occupancy of Yards)

Ben W. Gilbert

1976 NOV 17 AM 11:28
ZONING COMMISSION
DISTRICT OF COLUMBIA

At its public meeting held on Thursday, November 11, 1976, the Zoning Commission briefly discussed the proposed amendment to the Zoning Regulations which would redefine a yard and specifically provide what kind of buildings and structures could be located in required side and rear yards.

Based on the record of the public hearing, and comments made by the Commission and witnesses at the hearing, the Municipal Planning Office recommends to the Commission the following modifications to the proposed text, as an alternative thereto:

1. Set a maximum limit of 50 per cent for the area of a required yard which may be covered by buildings or structures.
2. Allow structure less than 4 feet high to occupy a yard.
3. Allow fences and retaining walls.
4. Allow stairs leading to the yard from the main floor without reference to the height or projection.
5. Eliminate the special exception which would give the BZA discretion to approve greater occupancy of yards.

The thrust of these changes is to allow low structures, fences and stairs in yards as a matter-of-right with a restriction on occupancy to insure that at least 50 per cent of a yard is left open. The removal of the restriction on

height and projection of stairs allows for greater architectural flexibility without resulting in negative impacts for adjoining properties. The elimination of the special exception avoids the creation of a review process for which it would be difficult to develop standards to judge applications. The BZA would, of course, retain its power to grant a variance from the strict application of these Regulations in specific cases where a practical difficulty or hardship exists.

The complete text language for the revised proposal is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows:

"An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations.

No such building or structure shall occupy in excess of 50 per cent of a yard required by these Regulations.

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, no part of which is more than four feet above the grade at any point may occupy any yard required under the provisions of the Regulations. Any railing required by the Building Code shall not be calculated in the measurement of such height.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code.

0000005

Government of the District of Columbia
EXECUTIVE OFFICE



Municipal Planning Office
District Building
Washington, D.C. 20004

November 3, 1976

M E M O R A N D U M

TO: D.C. Zoning Commission

FROM: Ben W. Gilbert, Director
Municipal Planning Office

RE: Summary/Abstract of Zoning Commission Case No. 76-15

The Zoning Commission held a public hearing on September 8 and 9, 1976, to consider proposed amendments to the text of the Zoning Regulations relating to the occupancy of yards. Testimony was presented by the Municipal Planning Office, ANC 2B, Arthur Fawcett, Ms. Harriett Hubbard, Wilkes and Artis, and William S. Harps, Chairman of the Board of Zoning Adjustment. The major points and issues raised in the record are as follows:

1. Clarification of Paragraph 7602.21. Commissioner White suggested that the language be amended to read as follows:
"A structure, not including a building, no part of which is more than four feet above the grade at any point, may occupy. . ."
2. Clarification of inclusion of railings. MPO suggested that the following be added to Paragraph 7602.21 as modified above:
"Any railing required by the Building Code shall not be calculated in the measurement of such height."
3. Limitation by percentage. It was suggested that coverage of yards be limited in percentage terms, rather than as proposed by these amendments.
4. Special exception discretion. The present proposal gives the BZA some discretion. Several persons commented that the discretion should be increased or abolished.

A copy of the proposed amendment as modified in accordance with items 1 and 2 above is attached.

the text language for Case No. 76-15 is as follows:

Amend Section 1202, Definitions, to redefine a yard as follows:

"An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations."

Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, no part of which is more than four feet above the grade at any point may occupy any yard required under the provisions of the Regulations. Any railing required by the Building Code shall not be calculated in the measurement of such height.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code. The level of the highest tread or platform shall not exceed 8 feet out of grade, and the stairs shall not project further than 4 feet into the required yard.

7602.24 The Board of Zoning Adjustment is hereby authorized to permit a structure, not including a building, to occupy a yard required under the provisions of these Regulations if such occupancy is not otherwise permitted as a matter-of-right, provided:

1. Any such structure shall be located entirely below the level of the main floor, except for any railing required by the Building Code.
2. Any such structure will not block light and ventilation for any building located on the subject property or any abutting properties.
3. Any such structure shall not lessen access from any building on the lot to the required yard.

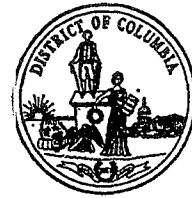
Sub-section 8207.2, jurisdiction of the BZA to grant special ex-
ceptions, to add to the table of special exceptions the following:

<u>Type of Special Exception</u>	<u>District</u>	<u>Section, Paragraph or Sub- paragraph in which conditions are specified</u>
Structure in required yard	any district	7602.24

0000006

Government of the District of Columbia
EXECUTIVE OFFICE

Municipal Planning Office
District Building
Washington, D.C. 20004



September 1, 1976

Ben W. Gilbert

M E M O R A N D U M

TO: D.C. Zoning Commission

FROM: Ben W. Gilbert, Director
Municipal Planning Office

RE: Zoning Commission Case No. 76-15

Application

The idea behind the text amendments proposed in this case was originally presented to the Zoning Commission by Mr. William S. Harps, Chairman of the Board of Zoning Adjustment. Mr. Harps proposed that the Zoning Commission clarify the Zoning Regulations as to what kinds of structures may occupy a yard required by the Zoning Regulations. Subsequently, following the directions of the Commission, the staff prepared and advertised specific text language (a copy of which is attached) which would define a yard as an exterior space unoccupied from the ground up, and would allow only certain prescribed structures to be located in a yard, as follows:

1. Accessory buildings in rear yards would be permitted as at present.
2. A structure, but not a building, may occupy a yard if it is less than four feet out of grade in its entirety.
3. A fence or retaining wall is permitted.
4. Stairs leading from the main story to the ground are permitted, provided that the highest tread is not more than 8 feet out of grade.

The effect of these proposed amendments is to change the current interpretation regarding occupancy of yards. The Zoning Administrator and the Board of Zoning Adjustment have determined that as long as a structure lies below the level of the main floor, and is thus not counted in the calculation of lot occupancy, it may occupy a yard.

Summary Recommendation

The Municipal Planning Office recommends that the Zoning Commission adopt the proposed text amendments with a clarifying modification regarding deck railings as a reasonable control on the occupancy permitted in yards required by the Zoning Regulations.

Background

The subject amendments were proposed to the Zoning Commission primarily as a result of a long and complicated case before the Board of Zoning Adjustment (Docket No. 11158) which dealt with the issue of a rear deck on a property in Georgetown. The level of the floor of the deck was below the level of the main floor joists of the building, and thus would not be computed as part of the building area (specifically exempted by the definition of building area). Based on a long-standing interpretation, the Zoning Administrator approved the issuance of a permit for the deck to cover 100 percent of the required rear yard. On an appeal taken by an abutting property owner, the BZA determined that because the subject railing around the deck (required by the Building Code) extended above the level of the main floor joists, the whole structure could not be located in a rear yard. Following a remand of the case to the Board from the D.C. Court of Appeals and further hearings, the Board reversed its earlier decision and denied the appeal. The Board concluded that the Zoning Administrator was correct in allowing the structure in the rear yard as long as the structure was below the main floor joists.

Detailed Description and Analysis

The present Zoning Regulations define a yard as "an unoccupied space other than a court, open to the sky on the same lot with a building or other structure". The interpretation placed on this definition by the Zoning Administrator and the Board of Zoning Adjustment implies that the space shall be unoccupied from the level of the main floor joists. Consequently, buildings and structures could occupy 100 percent of a lot, including all required yards, if the building and structures were below the level of the main floor. Since many dwellings in the District have basements, the ceiling of which may be from four to eight feet out of grade, the level of the main floor may also be well out of grade. In addition, if a lot slopes down from front to back, the main floor may be more than one story out of grade at the rear of the house.

The present Zoning Regulations do specifically provide for accessory buildings to be located in rear yards (Section 7601). This section limits the height of accessory buildings in required rear yards to 15 feet, and specifies that no more than 30 percent of the required rear yard may be occupied.

In clarifying and amending the Zoning Regulations regarding what should be allowed to occupy a yard, there are essentially three options available, as follows:

1. Clarify the Regulations to continue the present interpretation. This would allow a structure to occupy a yard as long as it is below the level of the main floor, and could be accomplished by defining a yard as a space unoccupied from the level of the main floor up. This option would allow for complete occupancy of a lot, but would still provide the required light and ventilation for any buildings on the lot by limiting coverage to below the first floor. Building and housing code provisions would govern the requirements for light and ventilation to basement areas, and would effect the exact design and coverage for buildings on a particular lot. From the negative side, such a regulation would allow buildings or structures 10 feet or more out of grade to cover an entire yard, with adverse effects on light, air, privacy and aesthetics for properties surrounding the particular site.
2. Prohibit any structures from occupying a yard. This could be accomplished by defining a yard as an unoccupied space from the ground up. This would prevent any structures from locating in a yard, and would preserve these areas as open spaces. Such an across-the-board prohibition would not allow any structures, including fences, swimming pools, tennis courts, etc.
3. Allow certain limited occupancy of a yard. This could be accomplished by defining a yard as an unoccupied space from the ground up except for certain specified items. There are a number of approaches which could be utilized under this option, from giving all discretion to the BZA to allow occupancy, to permitting coverage up to a certain specified percentage or by specifying certain exemptions as a matter-of-right.

The proposed regulations take the third, middle ground approach by allowing certain structures to be located in required yards. These regulations apply to side and rear yards, since these are the yards required by the Zoning Regulations. A yard is defined as a space unoccupied from the ground up except as specifically provided. Those items which are allowed are broken into two classes, those allowed as a matter-of-right and those allowed with BZA approval.

Those items which may occupy a required side or rear yard as a matter-of-right are as follows:

1. Accessory buildings allowed in rear yards under the provisions of Section 7601.
2. A structure, but not a building, which is four feet or less out of grade in its entirety. This would prohibit a basement or cellar from

extending into a required yard, but would allow swimming pools, tennis courts, air conditioning compressors, and low decks where the entire deck, except for required safety railing, is less than four feet out of grade.

3. A fence or retaining wall up to the heights established by the Building Code may be located in a side or rear yard.

4. Stairs leading to the ground from the main floor. The steps may not exceed eight feet in height out of grade (the approximate height of one story for residential purposes) nor project more than four feet into the yard (the same distance as for a fire escape). MPO notes that these requirements are based on normal situations, which may require steps to be oriented parallel to the building rather than perpendicular to it. The Zoning Commission may wish to consider other alternatives to the distance out of grade or the allowable projection, to take into account unusual situations caused by changes in grade or to allow for greater architectural flexibility in the design of such stairs without requiring BZA approval of each such situation.

The Board of Zoning Adjustment may permit other structures, again not including buildings, to occupy yards. Such structures would be those more than four feet out of grade or those which are not otherwise permitted as a matter-of-right. The Board is required to find that such structures are located below the level of the main floor, except for any railings required of the Building Code, that the structure will not block light and ventilation, and that the structure does not lessen access to the required yard. The Board thus has the discretion to permit greater occupancy of yards if certain safeguards are met. As always, in exceptional or unique circumstances, where a practical difficulty or hardship is present, the Board may grant a variance from the provision as well as any other provisions of the Zoning Regulations. Attached figures 1 and 3 show situations where structures would be allowed as a matter-of-right. Attached figures 2 and 4 show situations where structures would be permitted only with BZA approval.

The proposal, as advertised for hearing, does not specifically indicate whether the height of a required safety railing is to be included for the purpose of measuring the height of a structure out of grade. The Building Code requires that all decks (referred to as open porches in the Code) 24 inches or more above the ground shall have a safety railing of at least 31 inches and not more than 42 inches on all open sides. The proposed regulation, as advertised, would require BZA review of a deck where the surface of the deck would be 4 feet or less out of grade and where only the railing extended above the four foot level. MPO believes that this would result in an unacceptable burden for the BZA and is not the intent of the proposed regulation. MPO, therefore, recommends that a new sentence be added to proposed paragraph 7602.21. The whole paragraph would then read as follows:

7602.21 A structure, not including a building, which is four feet or less out of grade in its entirety may occupy any yard required under the provisions of this regulation. Any railing required by the Building Code shall not be calculated in the measurement of such height.

Recommendation

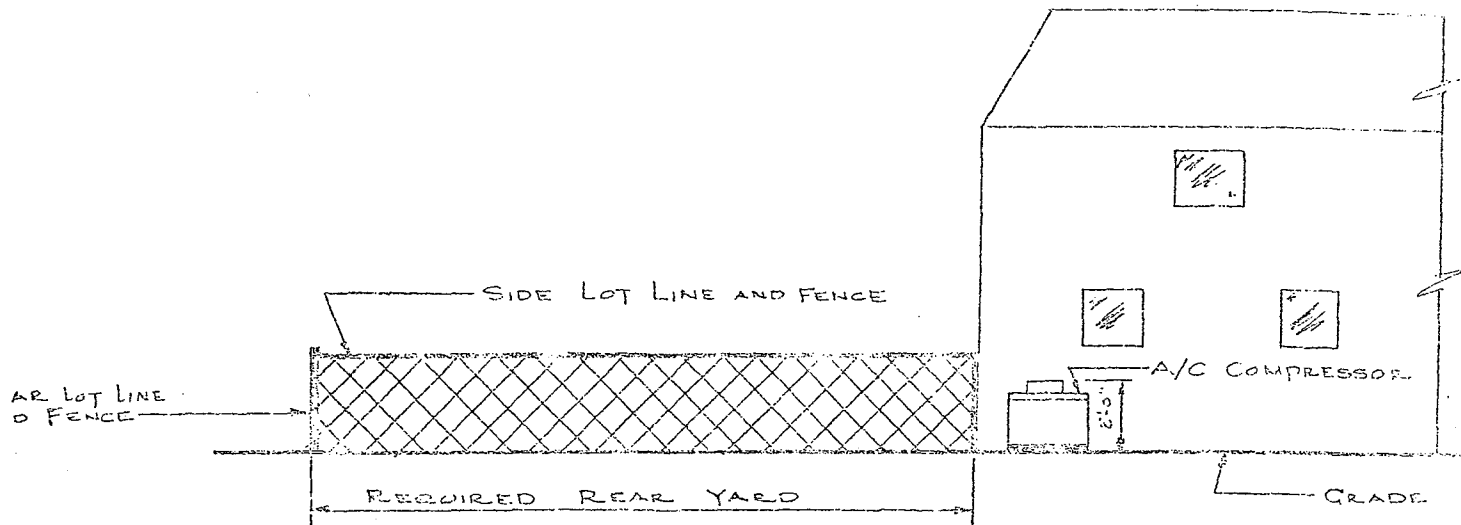
The Municipal Planning Office recommends that the Zoning Commission adopt the proposed text amendments to the Zoning Regulations, as clarified with the modification concerning safety railings, to provide for certain limited occupancy of yards. The MPO believes that neither complete occupancy of yards nor outright prohibition of all occupancy is a desirable approach. The MPO believes that the middle ground approach, allowing limited occupancy as a matter-of-right and giving the BZA authority to review any other situation, represents a sensible balance in resolving this issue, and therefore recommends adoption of the proposed language.

Report Prepared by:
Zoning Division, MPO
SES:ss

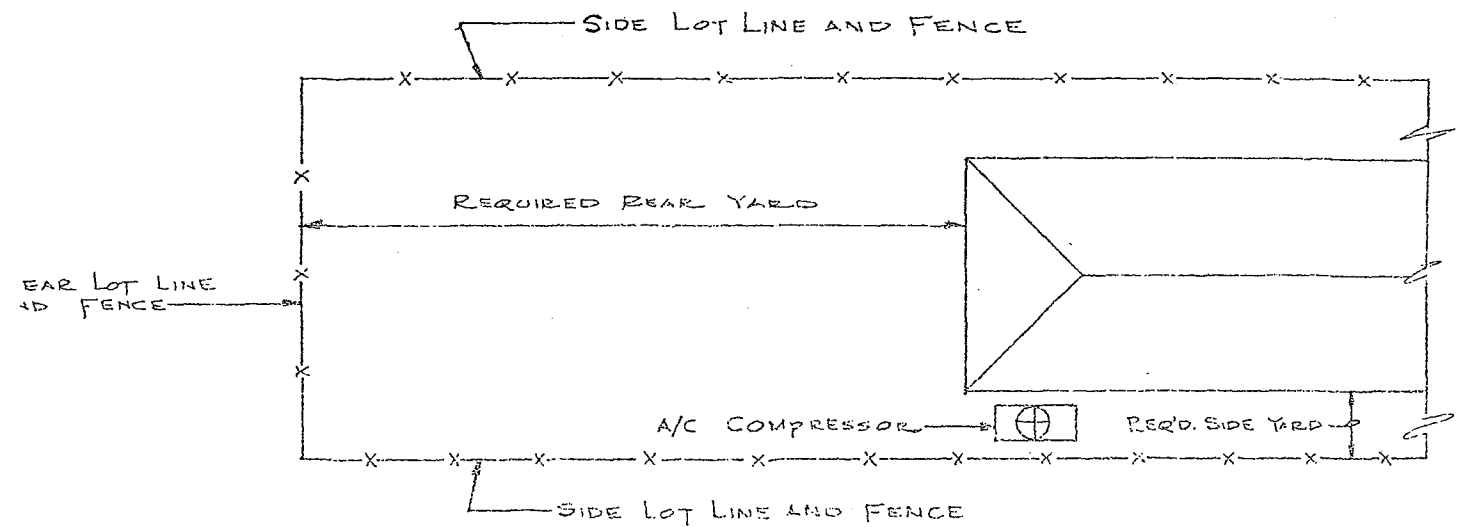
FIGURE 1

NOTE:

PERMITTED UNDER PROPOSED REGULATION



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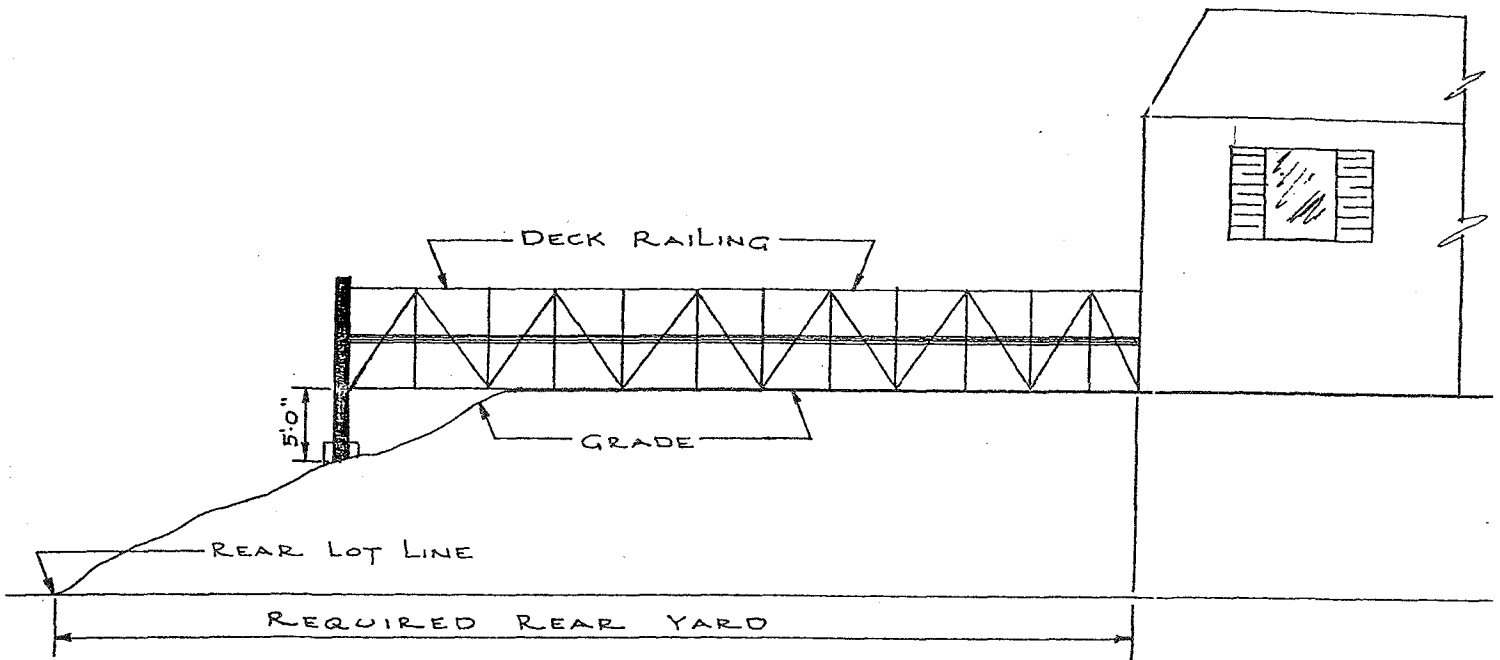


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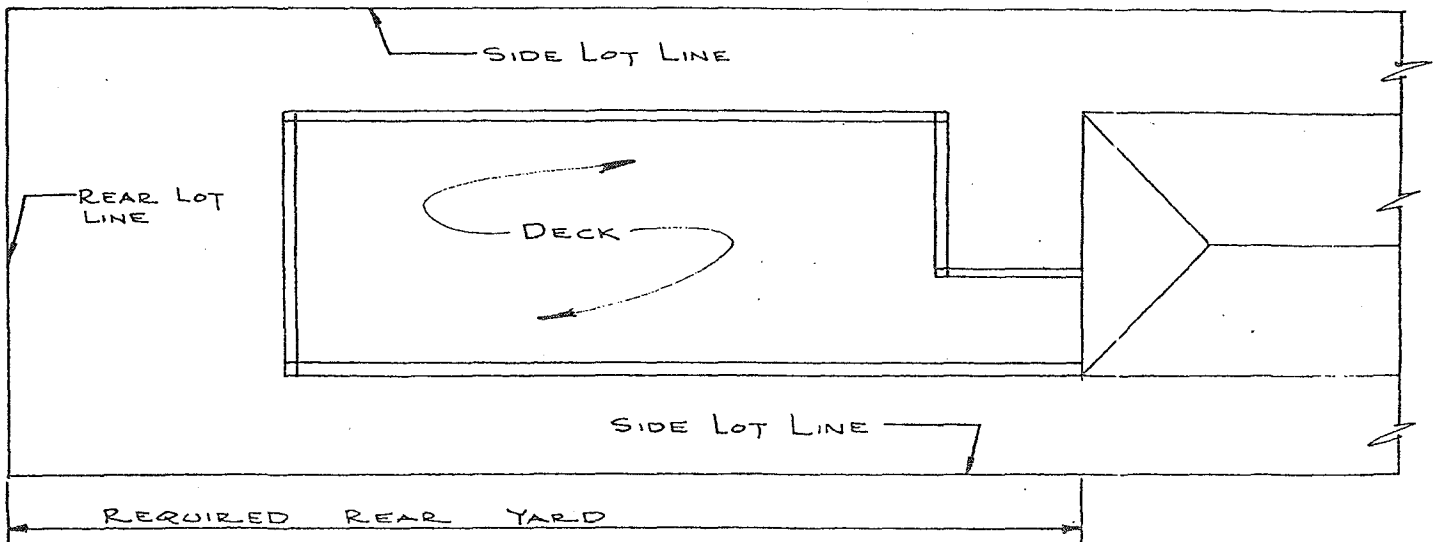
FIGURE 2

NOTE:

PERMITTED ONLY WITH B.Z.A. APPROVAL UNDER PROPOSED
REGULATION



ELEVATION
N.T.S.

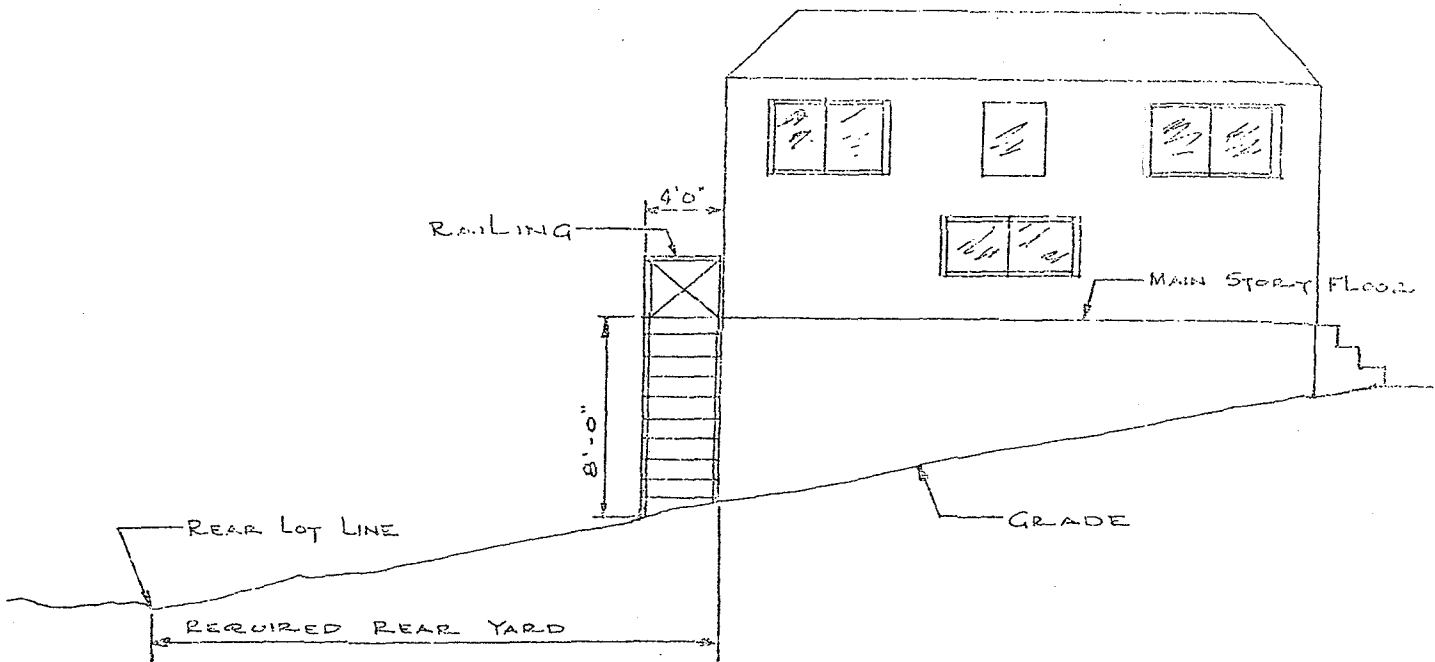


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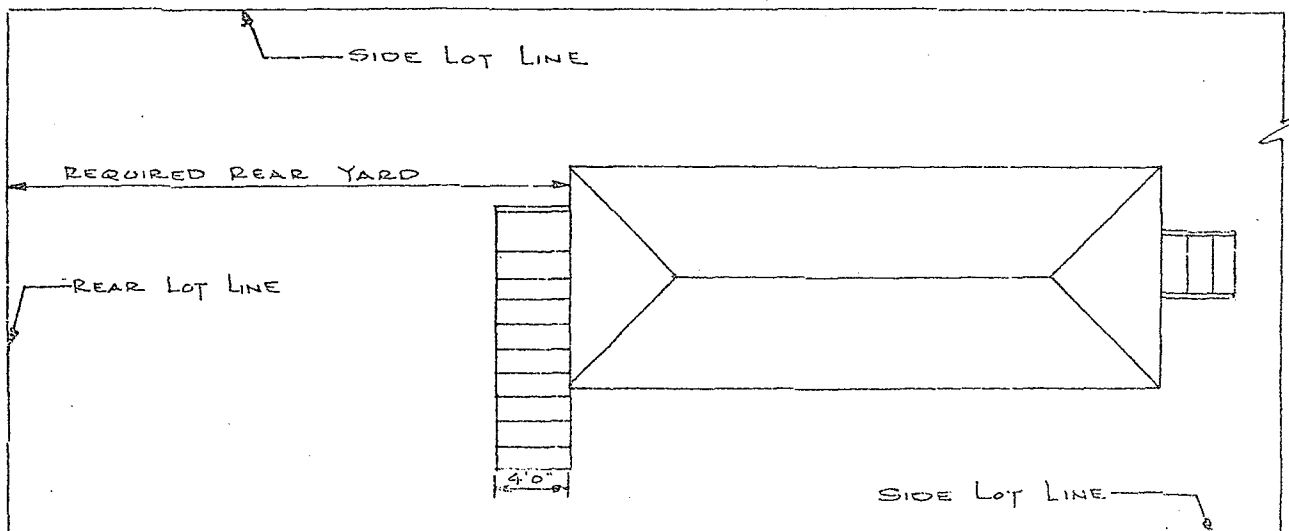
FIGURE 1

NOTE:

PERMITTED UNDER PROPOSED REGULATION



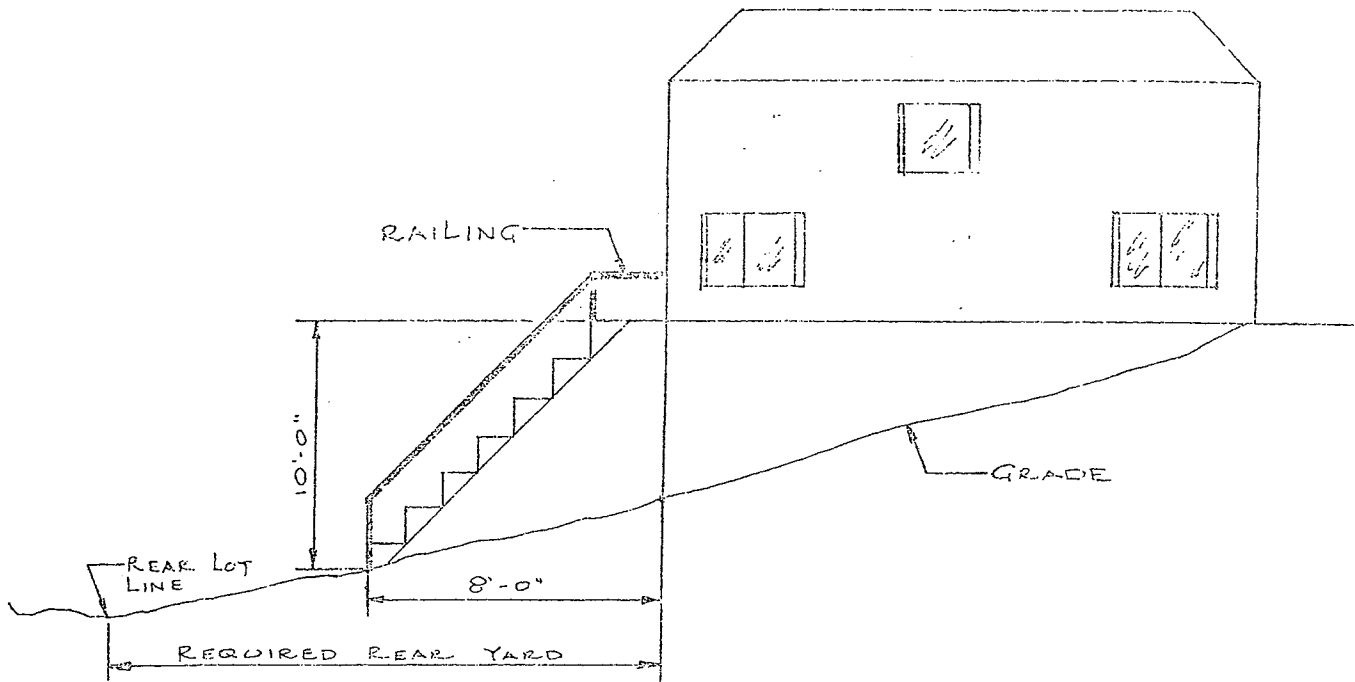
ELEVATION
N.T.S.



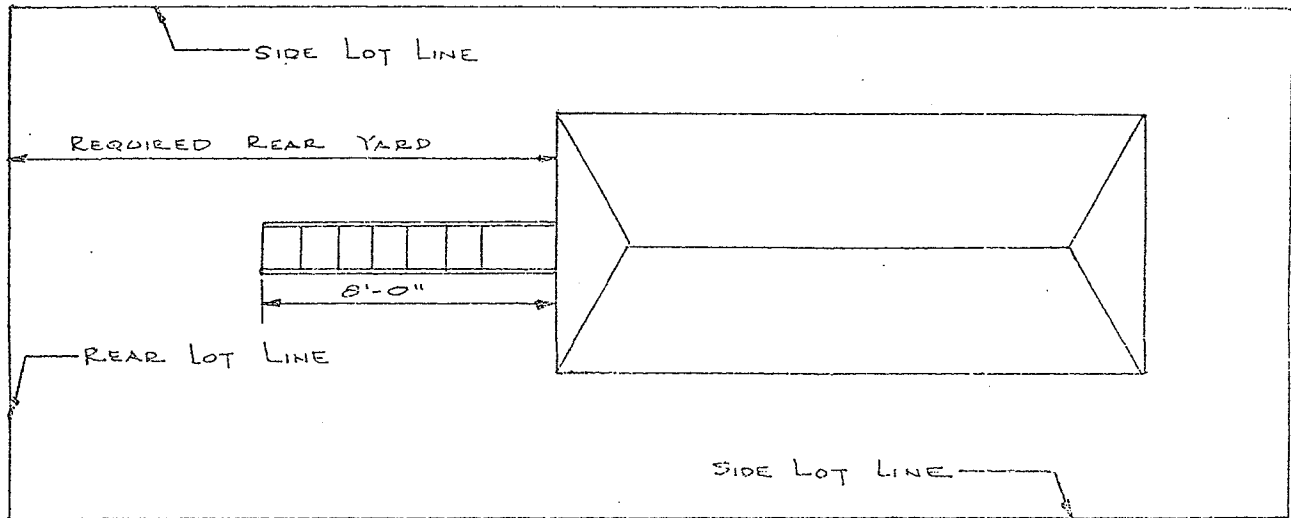
PLAN
N.T.S.

FIGURE 4

NOTE:
PERMITTED ONLY WITH B.Z.A. APPROVAL UNDER PROPOSED REGULA



ELEVATION
N.T.S.



PLAN
N.T.S.

0000007

Government of the District of Columbia
EXECUTIVE OFFICE

Municipal Planning Office
District Building
Washington, D.C. 20004

July 21, 1976



M E M O R A N D U M

To: D.C. Zoning Commission

From: Ben W. Gilbert, Director
Municipal Planning Office

Subject: Proposed Text Amendment regarding Occupancy of Yards

At its public meeting held on Thursday, July 8, 1976, the Zoning Commission received a memorandum outlining two proposals to amend the text of the Zoning Regulations from William S. Harps, chairman of the Board of Zoning Adjustment. The Commission voted to set down for a public hearing the proposal related to the occupancy of yards required by the Zoning Regulations. The Commission directed the staff to prepare actual text language for an amendment to the Zoning Regulations, and to schedule a public hearing on such language for September 8, 1976.

It is herein proposed to amend the Zoning Regulations to clarify which structures may occupy a side or rear yard required by the Zoning Regulations. The proposed amendments would prohibit any structure (by definition, "anything constructed, including a building, the use of which requires permanent location on the ground . . .") from occupying a yard, except for the following:

1. A structure, but not a building, may occupy a yard if it is less than 4 feet out of grade in its entirety (e.g., air conditioner compressor, swimming pool, etc.).
2. A fence or retaining wall is permitted.
3. Stairs leading from the main story to the ground are permitted, provided that the highest tread is not more than 8 feet out of grade.
4. There will be no change in the provisions of Section 7601 which currently permit accessory buildings in rear yards.

The proposed amendments also authorize the BZA to allow a structure, but not a building, to occupy yards in excess of the above limitations provided:

1. the structure is below the level of the main floor;
2. there will be no blocking of light or air;
3. access to the yard will not be diminished.

The actual text language is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows:

"An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations."

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, which is four feet or less out of grade in its entirety may occupy any yard required under the provisions of these Regulations.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code. The level of the highest tread or platform shall not exceed 8 feet out of grade, and the stairs shall not project further than 4 feet into the required yard.

7602.24 The Board of Zoning Adjustment is hereby authorized to permit a structure, not including a building, to occupy a yard required under the provisions of these Regulations if such occupancy is not otherwise permitted as a matter-of-right, provided:

1. Any such structure shall be located entirely below the level of the main floor, except for any railing required by the Building Code.
 2. Any such structure will not block light and ventilation for any building located on the subject property or any abutting properties.
 3. Any such structure shall not lessen access from any building on the lot to the required yard.
3. Amend Sub-section 8207.2, jurisdiction of the BZA to grant special exceptions, to add to the table of special exceptions the following:

<u>Type of Special Exception</u>	<u>District</u>	<u>Section, Paragraph or Sub-paragraph in which conditions are specified</u>
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Structure in required yard	any District	7602.24
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0000008

December 15, 1976

Charles Conrad
Executive Director
National Capital Planning
Commission
1325 "G" Street, N.W.
Washington, D.C. 20576

RE: Z.C. No. 76-15

Dear Mr. Conrad:

On December 9, 1976, the District of Columbia Zoning Commission took action on the attached proposal to amend the Zoning Regulations pertaining to the "Occupancy of Yards". This amendment redefines a yard and specifically provides what kind of buildings and structures could be located in required side and rear yards.

This proposed amendment is being transmitted to you for comment and review by the National Capital Planning Commission pursuant to Section 492(b) (2) of the District of Columbia Self-Government and Governmental Re-organization Act.

To assist in your review we are transmitting herewith the reports of the Municipal Planning Office relevant to the case.

Sincerely,

Arthur B. Hatton
Executive Secretary

0000009

The Citizens Association of Georgetown

2803 M Street, N.W. • Washington, D. C. 20007
(202) 337-7313



September 2, 1976

Zoning Commission
Room 11A, District Building
14th and E Streets, N. W.
Washington, D. C. 20004

Gentlemen:

I wish to appear on September 8 in opposition to text changes in the zoning regulations which would remove certain decisions from the Board of Zoning Adjustment and put them under the decision of the Zoning Administrator.

Very truly yours,

Eva Robertson Hinton
Eva Robertson Hinton →
(Mrs. Harold B. Hinton)
Chairman, Zoning, Planning
and Building Committee
3rd Vice President

1976 SEP -7 11 31 AM

DISTRICT BUILDING
ZONING AND PLANNING

act
9/2/76

0000010

Government of the District of Columbia
EXECUTIVE OFFICE



Municipal Planning Office
District Building
Washington, D.C. 20004

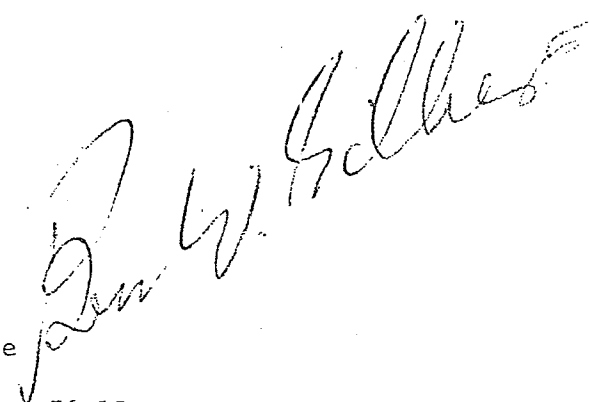
September 1, 1976

M E M O R A N D U M

TO: D.C. Zoning Commission

FROM: Ben W. Gilbert, Director
Municipal Planning Office

RE: Zoning Commission Case No. 76-15



Application

The idea behind the text amendments proposed in this case was originally presented to the Zoning Commission by Mr. William S. Harps, Chairman of the Board of Zoning Adjustment. Mr. Harps proposed that the Zoning Commission clarify the Zoning Regulations as to what kinds of structures may occupy a yard required by the Zoning Regulations. Subsequently, following the directions of the Commission, the staff prepared and advertised specific text language (a copy of which is attached) which would define a yard as an exterior space unoccupied from the ground up, and would allow only certain prescribed structures to be located in a yard, as follows:

1. Accessory buildings in rear yards would be permitted as at present.
2. A structure, but not a building, may occupy a yard if it is less than four feet out of grade in its entirety.
3. A fence or retaining wall is permitted.
4. Stairs leading from the main story to the ground are permitted, provided that the highest tread is not more than 8 feet out of grade.

The effect of these proposed amendments is to change the current interpretation regarding occupancy of yards. The Zoning Administrator and the Board of Zoning Adjustment have determined that as long as a structure lies below the level of the main floor, and is thus not counted in the calculation of lot occupancy, it may occupy a yard.

Summary Recommendation

The Municipal Planning Office recommends that the Zoning Commission adopt the proposed text amendments with a clarifying modification regarding deck railings as a reasonable control on the occupancy permitted in yards required by the Zoning Regulations.

Background

The subject amendments were proposed to the Zoning Commission primarily as a result of a long and complicated case before the Board of Zoning Adjustment (Docket No. 11158) which dealt with the issue of a rear deck on a property in Georgetown. The level of the floor of the deck was below the level of the main floor joists of the building, and thus would not be computed as part of the building area (specifically exempted by the definition of building area). Based on a long-standing interpretation, the Zoning Administrator approved the issuance of a permit for the deck to cover 100 percent of the required rear yard. On an appeal taken by an abutting property owner, the BZA determined that because the subject railing around the deck (required by the Building Code) extended above the level of the main floor joists, the whole structure could not be located in a rear yard. Following a remand of the case to the Board from the D.C. Court of Appeals and further hearings, the Board reversed its earlier decision and denied the appeal. The Board concluded that the Zoning Administrator was correct in allowing the structure in the rear yard as long as the structure was below the main floor joists.

Detailed Description and Analysis

The present Zoning Regulations define a yard as "an unoccupied space other than a court, open to the sky on the same lot with a building or other structure". The interpretation placed on this definition by the Zoning Administrator and the Board of Zoning Adjustment implies that the space shall be unoccupied from the level of the main floor joists. Consequently, buildings and structures could occupy 100 percent of a lot, including all required yards, if the building and structures were below the level of the main floor. Since many dwellings in the District have basements, the ceiling of which may be from four to eight feet out of grade, the level of the main floor may also be well out of grade. In addition, if a lot slopes down from front to back, the main floor may be more than one story out of grade at the rear of the house.

The present Zoning Regulations do specifically provide for accessory buildings to be located in rear yards (Section 7601). This section limits the height of accessory buildings in required rear yards to 15 feet, and specifies that no more than 30 percent of the required rear yard may be occupied.

In clarifying and amending the Zoning Regulations regarding what should be allowed to occupy a yard, there are essentially three options available, as follows:

1. Clarify the Regulations to continue the present interpretation. This would allow a structure to occupy a yard as long as it is below the level of the main floor, and could be accomplished by defining a yard as a space unoccupied from the level of the main floor up. This option would allow for complete occupancy of a lot, but would still provide the required light and ventilation for any buildings on the lot by limiting coverage to below the first floor. Building and housing code provisions would govern the requirements for light and ventilation to basement areas, and would effect the exact design and coverage for buildings on a particular lot. From the negative side, such a regulation would allow buildings or structures 10 feet or more out of grade to cover an entire yard, with adverse effects on light, air, privacy and aesthetics for properties surrounding the particular site.
2. Prohibit any structures from occupying a yard. This could be accomplished by defining a yard as an unoccupied space from the ground up. This would prevent any structures from locating in a yard, and would preserve these areas as open spaces. Such an across-the-board prohibition would not allow any structures, including fences, swimming pools, tennis courts, etc.
3. Allow certain limited occupancy of a yard. This could be accomplished by defining a yard as an unoccupied space from the ground up except for certain specified items. There are a number of approaches which could be utilized under this option, from giving all discretion to the BZA to allow occupancy, to permitting coverage up to a certain specified percentage or by specifying certain exemptions as a matter-of-right.

The proposed regulations take the third, middle ground approach by allowing certain structures to be located in required yards. These regulations apply to side and rear yards, since these are the yards required by the Zoning Regulations. A yard is defined as a space unoccupied from the ground up except as specifically provided. Those items which are allowed are broken into two classes, those allowed as a matter-of-right and those allowed with BZA approval.

Those items which may occupy a required side or rear yard as a matter-of-right are as follows:

1. Accessory buildings allowed in rear yards under the provisions of Section 7601.
2. A structure, but not a building, which is four feet or less out of grade in its entirety. This would prohibit a basement or cellar from

extending into a required yard, but would allow swimming pools, tennis courts, air conditioning compressors, and low decks where the entire deck, except for required safety railing, is less than four feet out of grade.

3. A fence or retaining wall up to the heights established by the Building Code may be located in a side or rear yard.

4. Stairs leading to the ground from the main floor. The steps may not exceed eight feet in height out of grade (the approximate height of one story for residential purposes) nor project more than four feet into the yard (the same distance as for a fire escape). MPO notes that these requirements are based on normal situations, which may require steps to be oriented parallel to the building rather than perpendicular to it. The Zoning Commission may wish to consider other alternatives to the distance out of grade or the allowable projection, to take into account unusual situations caused by changes in grade or to allow for greater architectural flexibility in the design of such stairs without requiring BZA approval of each such situation.

The Board of Zoning Adjustment may permit other structures, again not including buildings, to occupy yards. Such structures would be those more than four feet out of grade or those which are not otherwise permitted as a matter-of-right. The Board is required to find that such structures are located below the level of the main floor, except for any railings required of the Building Code, that the structure will not block light and ventilation, and that the structure does not lessen access to the required yard. The Board thus has the discretion to permit greater occupancy of yards if certain safeguards are met. As always, in exception or unique circumstances, where a practical difficulty or hardship is present, the Board may grant a variance from the provision as well as any other provisions of the Zoning Regulations. Attached figures 1 and 3 show situations where structures would be allowed as a matter-of-right. Attached figures 2 and 4 show situations where structures would be permitted only with BZA approval.

The proposal, as advertised for hearing, does not specifically indicate whether the height of a required safety railing is to be included for the purpose of measuring the height of a structure out of grade. The Building Code requires that all decks (referred to as open porches in the Code) 24 inches or more above the ground shall have a safety railing of at least 31 inches and not more than 42 inches on all open sides. The proposed regulation, as advertised, would require BZA review of a deck where the surface of the deck would be 4 feet or less out of grade and where only the railing extended above the four foot level. MPO believes that this would result in an unacceptable burden for the BZA and is not the intent of the proposed regulation. MPO, therefore, recommends that a new sentence be added to proposed paragraph 7602.21. The whole paragraph would then read as follows:

7602.21 A structure, not including a building, which is four feet or less out of grade in its entirety may occupy any yard required under the provisions of this regulation. Any railing required by the Building Code shall not be calculated in the measurement of such height.

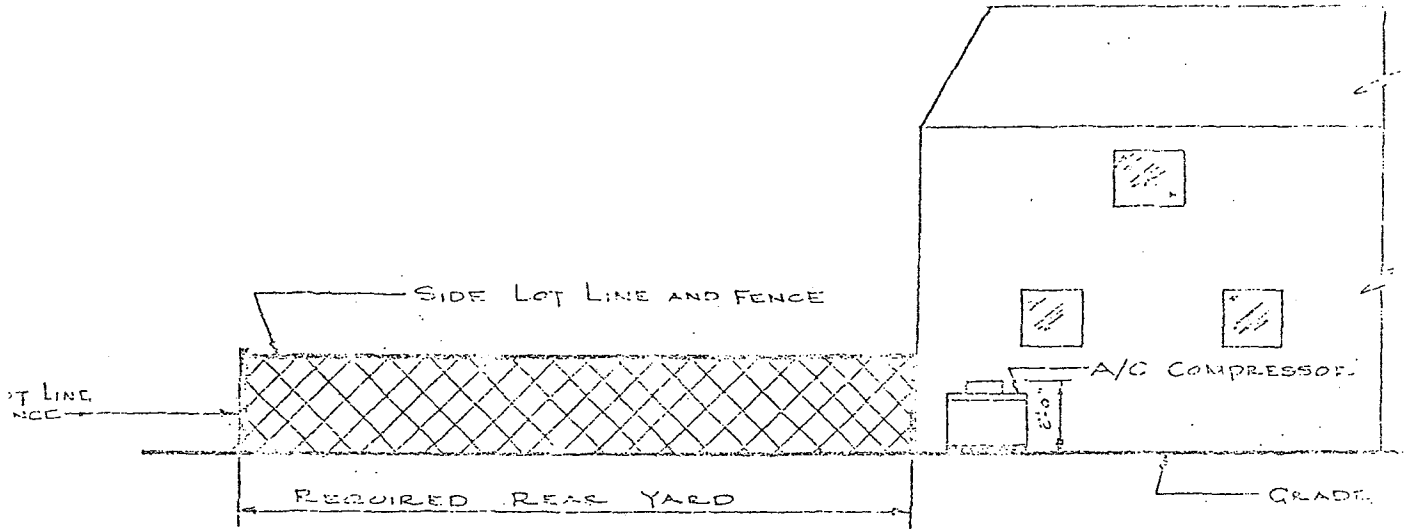
Recommendation

The Municipal Planning Office recommends that the Zoning Commission adopt the proposed text amendments to the Zoning Regulations, as clarified with the modification concerning safety railings, to provide for certain limited occupancy of yards. The MPO believes that neither complete occupancy of yards nor outright prohibition of all occupancy is a desirable approach. The MPO believes that the middle ground approach, allowing limited occupancy as a matter-of-right and giving the BZA authority to review any other situation, represents a sensible balance in resolving this issue, and therefore recommends adoption of the proposed language.

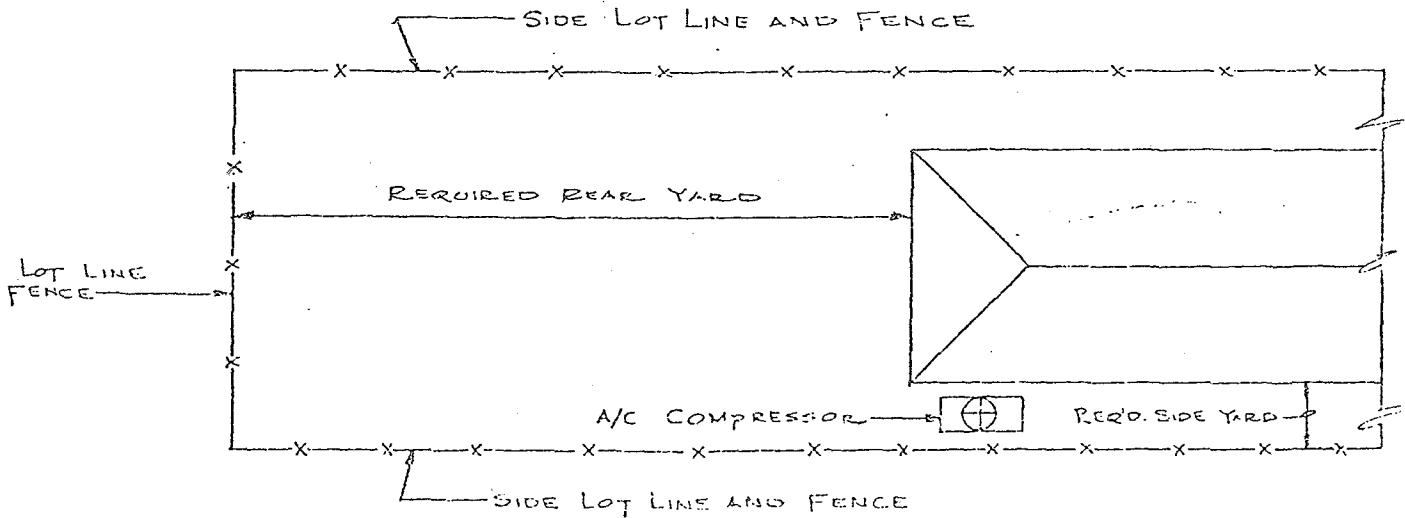
Report Prepared by:
Zoning Division, MPO
SES:ss

NOTE:

PERMITTED UNDER PROPOSED REGULATION



ELEVATION
N.T.S.

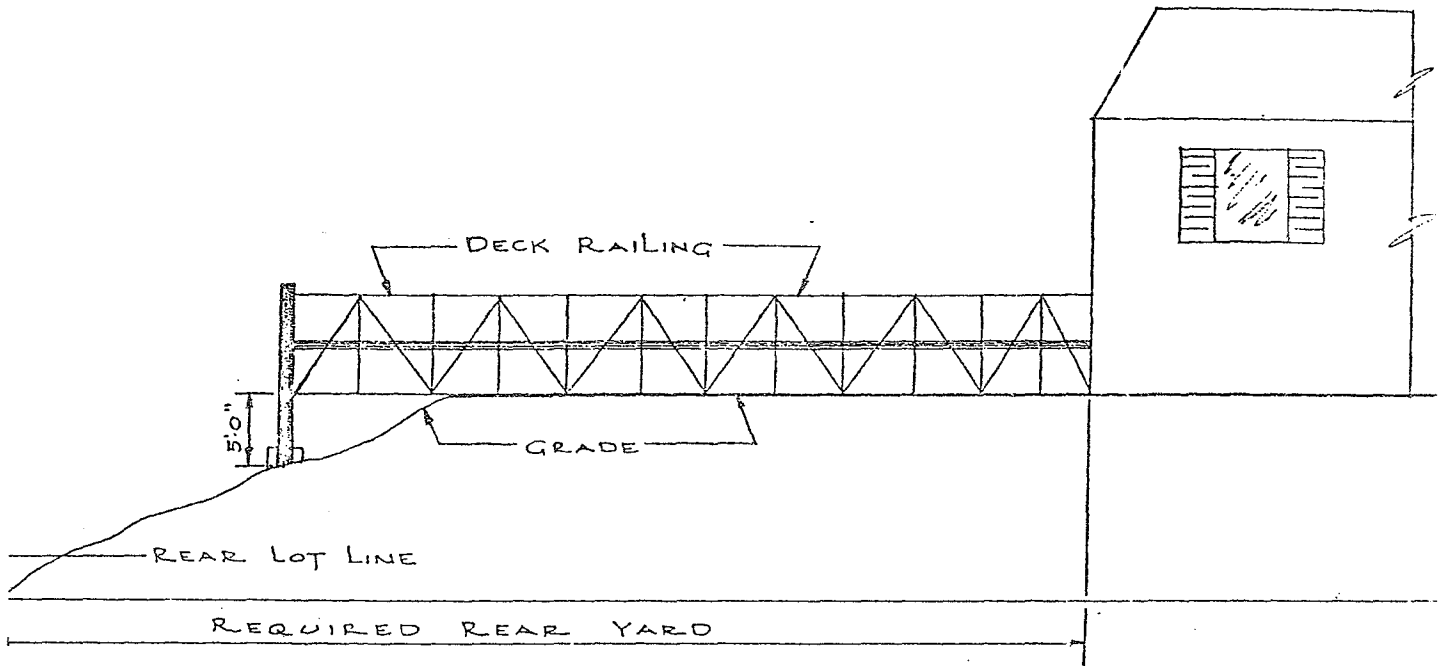


PLAN
N.T.S.

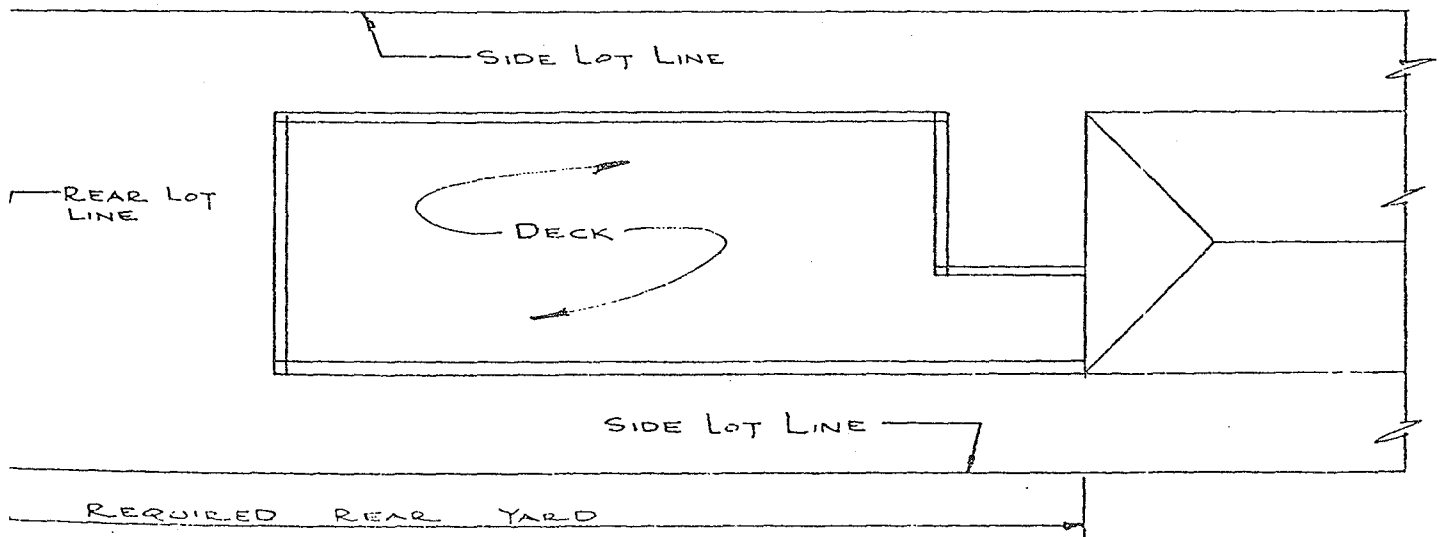
FIGURE 2

TE:

PERMITTED ONLY WITH B.Z.A. APPROVAL UNDER PROPOSED
REGULATION



ELEVATION
N.T.S.

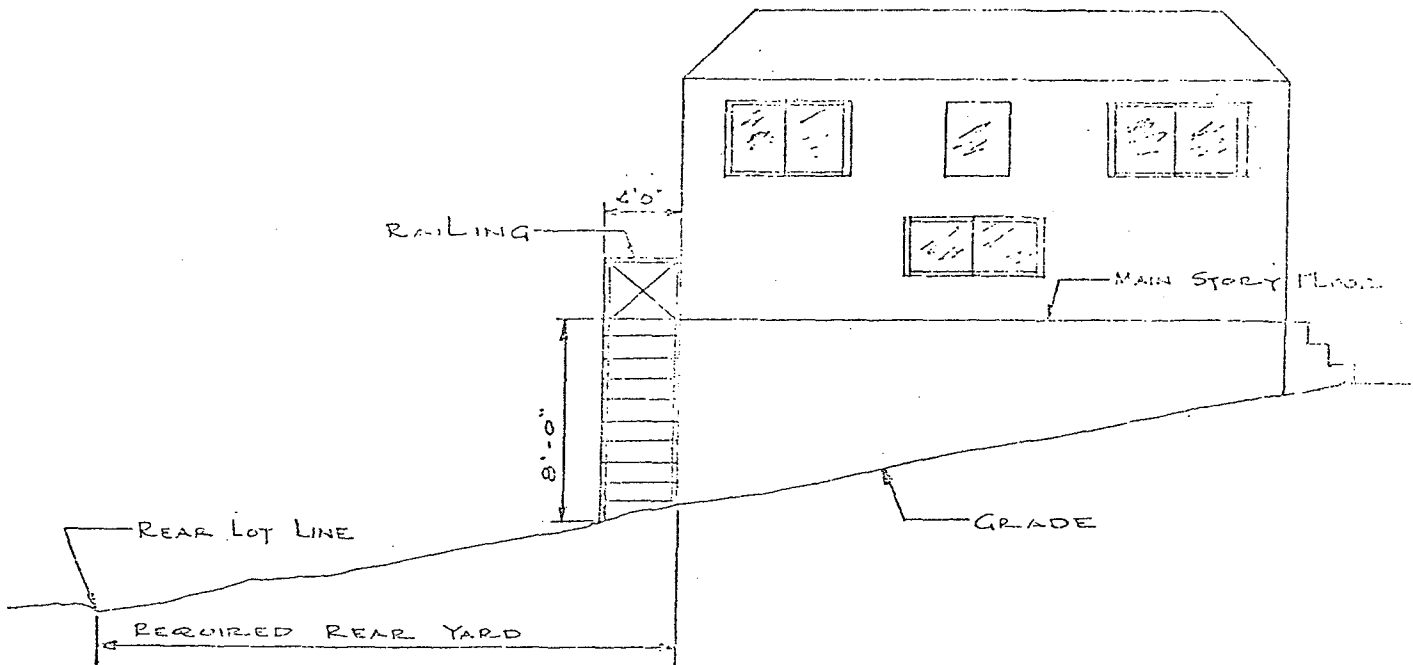


PLAN
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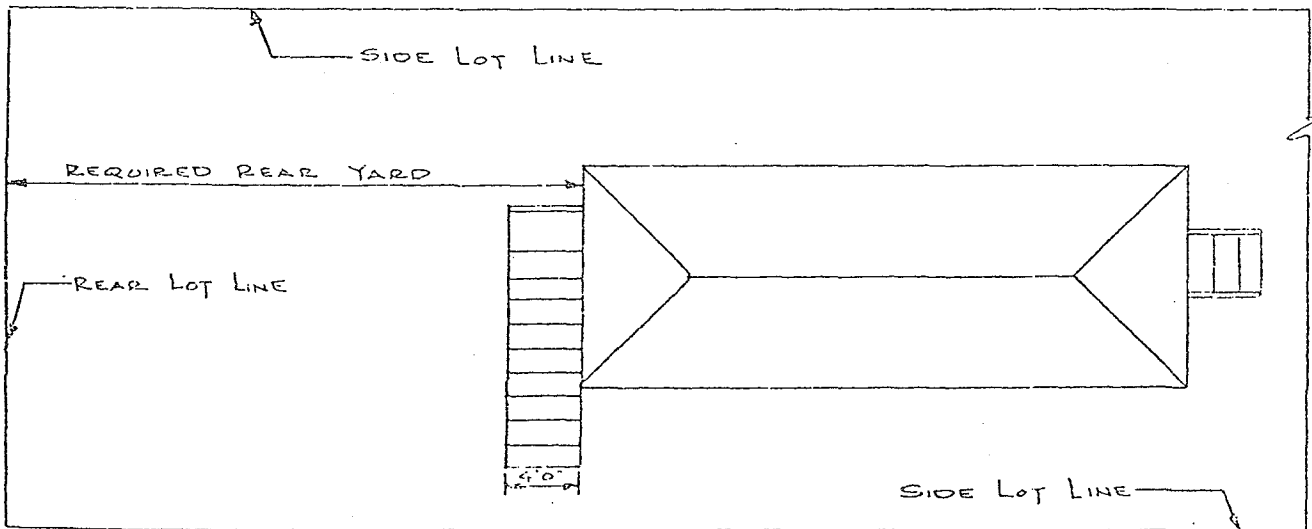
FIGURE 1

E:

PERMITTED UNDER PROPOSED REGULATION



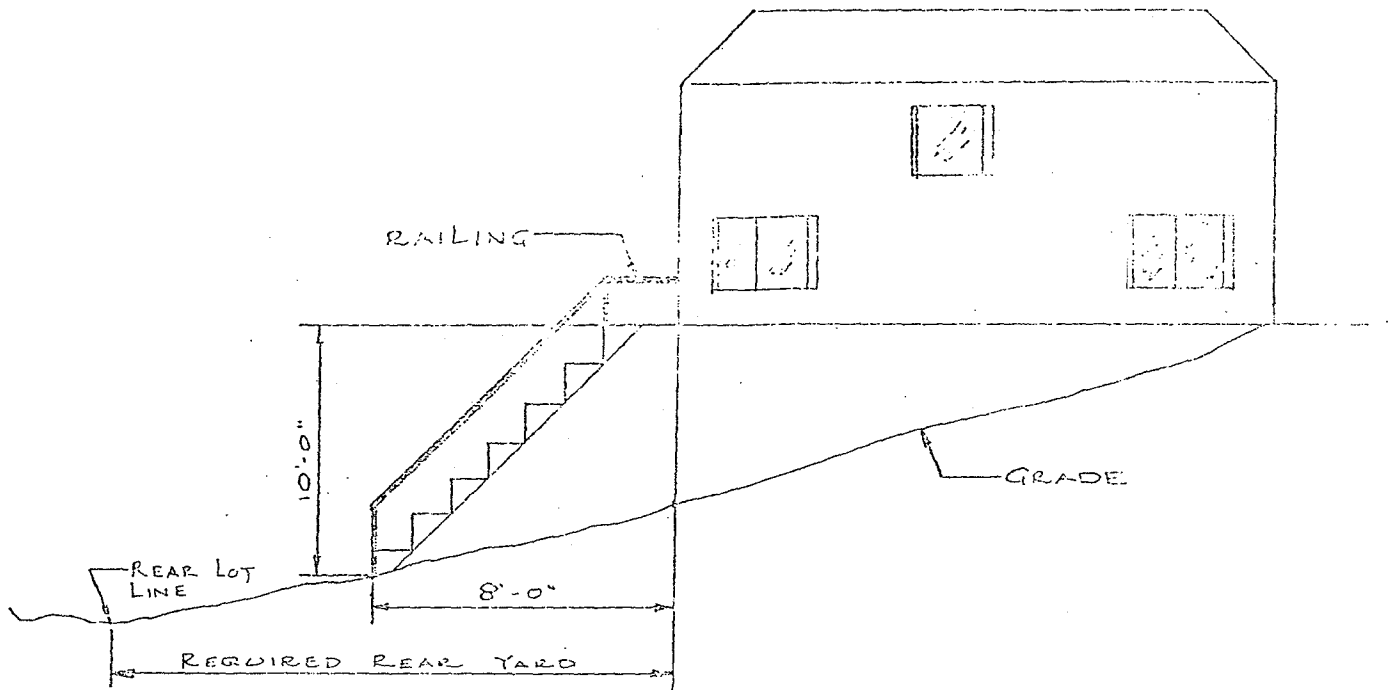
ELEVATION
N.T.S.



PLAN
N.T.S.

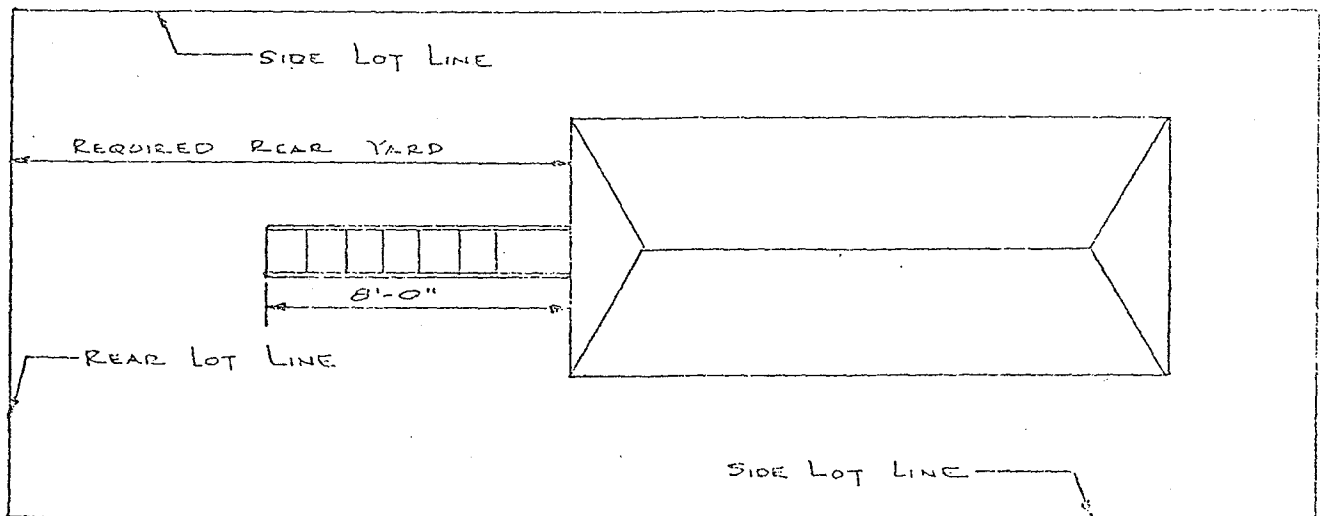
E:

PERMITTED ONLY WITH B.Z.A. APPROVAL UNDER PROPOSED REGULA



ELEVATION

N.T.S.



PLAN

N.T.S.

000003.1

Government of the District of Columbia
EXECUTIVE OFFICE

Municipal Planning Office
District Building
Washington, D.C. 20004

July 21, 1976



M E M O R A N D U M

To: D.C. Zoning Commission

From: Ben W. Gilbert, Director
Municipal Planning Office

Subject: Proposed Text Amendment regarding Occupancy of Yards

At its public meeting held on Thursday, July 8, 1976, the Zoning Commission received a memorandum outlining two proposals to amend the text of the Zoning Regulations from William S. Harps, chairman of the Board of Zoning Adjustment. The Commission voted to set down for a public hearing the proposal related to the occupancy of yards required by the Zoning Regulations. The Commission directed the staff to prepare actual text language for an amendment to the Zoning Regulations, and to schedule a public hearing on such language for September 8, 1976.

It is herein proposed to amend the Zoning Regulations to clarify which structures may occupy a side or rear yard required by the Zoning Regulations. The proposed amendments would prohibit any structure (by definition, "anything constructed, including a building, the use of which requires permanent location on the ground . . .") from occupying a yard, except for the following:

1. A structure, but not a building, may occupy a yard if it is less than 4 feet out of grade in its entirety (e.g., air conditioner compressor, swimming pool, etc.).
2. A fence or retaining wall is permitted.
3. Stairs leading from the main story to the ground are permitted, provided that the highest tread is not more than 8 feet out of grade.
4. There will be no change in the provisions of Section 7601 which currently permit accessory buildings in rear yards.

The proposed amendments also authorize the BZA to allow a structure, but not a building, to occupy yards in excess of the above limitations provided:

1. the structure is below the level of the main floor;
2. there will be no blocking of light or air;
3. access to the yard will not be diminished.

The actual text language is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows:

"An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations."

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, which is four feet or less out of grade in its entirety may occupy any yard required under the provisions of these Regulations.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code. The level of the highest tread or platform shall not exceed 8 feet out of grade, and the stairs shall not project further than 4 feet into the required yard.

7602.24 The Board of Zoning Adjustment is hereby authorized to permit a structure, not including a building, to occupy a yard required under the provisions of these Regulations if such occupancy is not otherwise permitted as a matter-of-right, provided:

1. Any such structure shall be located entirely below the level of the main floor, except for any railing required by the Building Code.
 2. Any such structure will not block light and ventilation for any building located on the subject property or any abutting properties.
 3. Any such structure shall not lessen access from any building on the lot to the required yard.
3. Amend Sub-section 8207.2, jurisdiction of the BZA to grant special exceptions, to add to the table of special exceptions the following:

<u>Type of Special Exception</u>	<u>District</u>	<u>Section, Paragraph or Sub-paragraph in which conditions are specified</u>
Structure in required yard	any District	7602.24

00012

1207 Independence Avenue, S. E.
Washington, D. C. 20003
September 10, 1976

Executive Secretary to
the Zoning Commission
Office of the Zoning Commission
Room 9, District Building
14th and E Streets, N. W.
Washington, D. C. 20004

Re: Case Nos. 76-7, 76-10 and 76-15

Sir:

In response to the notice of public hearing issued in the D.C. Register on July 29, 1976 referring to various proposed text amendments to the zoning regulations, the Planning and Zoning Committee of ANC 6B has met to consider the proposals. Because of the summer vacation, the full Commission has been unable to meet on this issue and will be unable to meet before the record closes. We, therefore, offer these comments as unofficial comments of a committee of the ANC, rather than of the ANC itself.

Case No. 76-7

The Committee has no comment on this case, other than to point out several apparent typographical errors, such as the reference to section 7608 in paragraph 14, which we believe should be to 7509, and the apparent duplications in paragraphs 16 and 17.

Case No. 76-10

The Committee suggests that in some cases the extension or addition to an existing building may not in fact be noncontroversial, and therefore, should not be permitted as a matter of right. We recognize, however, that the BZA process in many of these cases is too long, costly, and cumbersome for the public benefit received. We would, therefore, suggest that new sections 3305.9 and 3304.4 be revised in such a manner as to provide that abutters will be notified of proposed extensions or additions. If no adverse comments are received within a limited time, then the Zoning Administrator would have the power to grant a permit. If, however, adverse comments are received, the case would be sent to the BZA. We realize that this sets up a new method for the approval of nonconforming actions. However, such a category would appear to be useful in this case and may be in other cases also.

NOTED BY 10/15/76
NOISSH INOO 5NIN0Z



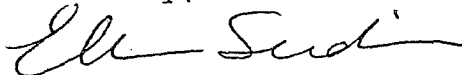
Executive Secretary, Zoning Commission
Page Two
September 10, 1976

Case No. 76-15

Our only comment on this case is to question the apparent inconsistency between the proposed new sections 7602.21 and 7602.24(1) with respect to the inclusion of a railing in the height of a permitted structure. It would appear that to achieve the goal of new section 7602.21, the four foot limitation should not include any railing required by the building Code. If this exception is not stated, 7602.21 will in effect be limited (as to decks) to 1 foot structures.

We would appreciate the inclusion of these comments in the hearing record for the above cases. We will attempt to take official ANC action on the matter at our next meeting scheduled for September 21.

Sincerely,



Ellen Seidman
Chairman, Planning and Zoning
Committee, ANC 6B

ES/rb

0000013

000003.4

WASHINGTON METROPOLITAN CHAPTER
OF THE AMERICAN INSTITUTE OF ARCHITECTS, INC.
1777 CHURCH STREET, N.W., WASHINGTON, D.C. 20036

September 17, 1976

The Executive Secretary to The Zoning Commission
Zoning Commission
Room 9 - District Building
14th and E Streets, N.W.
Washington, D.C. 20004

Re: Cases Nos: 76-7, 76-10, and 76-15

Dear Sir:

The Washington Metropolitan Chapter of The American Institute of Architects endorses the proposed changes set forth in the referenced cases.

The changes contained in Case No. 76-7 should offer the public and the Architect a more tangible and responsible planning and zoning entity by focusing the principal planning responsibility on the Municipal Planning Office. Hopefully, this change will simplify and shorten the approval process.

In Case No. 76-10 the transfer of a number of routine matters from the control of the Board of Zoning Adjustment into the hands of the Zoning Administrator should benefit both BZA and the Architect by allowing the former to devote its time to more significant matters and the latter by eliminating much of the uncertainty and inefficiency that naturally results from the present time consuming process. While supporting this change in concept we would call your attention to several problems with the proposed wording.

The most serious one has to do with Section 3308.31 where mention is made of Section 3308.15 without any such paragraph being included since the text skips from 3308.14 to 3308.16. From the language of 3308.31 it would seem that 3308.15, if it exists, contains provisions concerning the size of penthouse relative to the size of the main roof.

Another location where clarification is needed is in Section 3308.31. In the fourth line the word "height" is used. It would be more precise to use the words "in structural head room."

1976 SEP 20 AM 10:28

DISTRICT OF COLUMBIA
ZONING COMMISSION

The Executive Secretary to The Zoning Commission

September 17, 1976

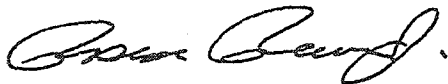
Page 2

A final comment regarding 76-10 concerns the question of why the list of items in Section 8207.2 has not been revised to delete the items removed from BZA's control.

With respect to the proposed changes in Case No. 76-15 these represent welcome clarifications concerning yard requirements.

We regret that the Chapter was unable to present its views on these cases at the public hearing but, unfortunately, last-minute circumstances acted to prevent our appearance. It is hoped that the above comments are helpful to the Zoning Commission in reaching a decision.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roscoe Reeves, Jr.", followed by a period.

Roscoe Reeves, Jr., AIA, Chairman
Committee on Codes and Standards

RR:pm

0000015

Wm. Halton

SEPTEMBER 8, 1976

CASES 76-7, 76-10 and 76-15

OPENING STATEMENT

GOOD MORNING LADIES AND GENTLEMEN, I AM _____.

JOINING ME THIS MORNING ARE _____,

_____ AND _____.

ZONING COMMISSION
District of Columbia

I DECLARE THIS HEARING OPEN.

Case 76-7

THE CASES THAT ARE THE SUBJECT OF TODAY'S PUBLIC HEARING ARE

Exhibit 1

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS AS FOLLOWS:

76-7 (AGENCY REFERRAL TEXT AMENDMENT), 76-10 (SIDE YARD, REAR YARD AND ROOF STRUCTURE TEXT AMENDMENT) AND 76-15 (OCCUPANCY OF YARDS TEXT AMENDMENT). THESE CASES WILL BE HEARD SEPARATELY AND IN CHRONOLOGICAL ORDER.

ALL THREE CASES HAVE BEEN INITIATED BY THE ZONING COMMISSION AND WILL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF PART III OF THE RULES OF PRACTICE AND PROCEDURE BEFORE THE ZONING COMMISSION OF THE DISTRICT OF COLUMBIA (18 D.C. REGISTER 891, SUPP. NO. 3, JULY 6, 1972).

NOTICE OF TODAY'S PUBLIC HEARING WAS ADVERTISED IN THE WASHINGTON STAR NEWS ON JULY 29, WASHINGTON POST ON JULY 30 AND AUGUST 3 AND THE D.C. REGISTER ON JULY 29, 1976.

RECEIVED

SEP 8 1976

WITNESSES ARE REQUIRED TO COMPLETE TWO IDENTIFICATION CARDS AND HAND THEM IN AT THE TIME THEY MAKE THEIR TESTIMONY. IF COPIES OF TESTIMONY ARE AVAILABLE, THEY SHOULD BE FURNISHED BEFORE

76-7, 76-10 & 76-15
P.H. - Sept. 8, 1976
PAGE 2

PRESENTING THE TESTIMONY.

THE PUBLIC HEARING NOTICE IN THIS CASE IS HEREBY INCORPORATED
BY REFERENCE INTO THE EXCLUSIVE RECORD OF THIS CASE.

TIME LIMIT

DUE TO THE LEGISLATIVE NATURE OF THIS HEARING, HELD UNDER PART
III OF THE RULES OF PRACTICE AND PROCEDURE, IT WILL BE NECESSARY
FOR EACH PERSON TESTIFYING TO STRICTLY LIMIT HIS PRESENTATION.
IF YOU HAVE ANY OTHER COMMENTS THAT YOU WISH TO ENTER INTO THE
RECORD FOR CONSIDERATION BY THE COMMISSION, THE FILE IN THIS
CASE WILL REMAIN OPEN FOR A PERIOD OF _____ WEEK(S) FOLLOWING THE
END OF THIS HEARING.

ALL GOVERNMENT AGENCIES, ORGANIZATIONS AND ASSOCIATIONS WILL BE
LIMITED TO PRESENTATIONS OF 15 MINUTES; TESTIMONY FROM INDIVIDUALS
WILL BE NO MORE THAN 10 MINUTES.

AFTER THE SECRETARY OF THE COMMISSION SIGNALS THE END OF YOUR 10
OR 15 MINUTES, YOU SHOULD CONCLUDE YOUR TESTIMONY AS QUICKLY AS
POSSIBLE. WE ASK YOU TO ADHERE TO THESE TIME LIMITATIONS OUT OF
CONSIDERATION FOR YOUR FELLOW CITIZENS WHO ALSO WISH TO MAKE THEIR
VIEWS KNOWN TO US.

THE ONLY CROSS-EXAMINATION ALLOWED IN THESE CASES WILL BE THE
MEMBERS OF THE ZONING COMMISSION.

76-7, 76-10 & 76-15
Sept. 8, 1976 - P.H.
Page 3

THE ORDER OF PROCEDURE WILL BE AS FOLLOWS:

1. REPORT OF COMMISSION'S SPECIAL ASSISTANT - REGINALD LYONS
2. REPORT OF MUNICIPAL PLANNING OFFICE
3. PERSONS IN SUPPORT
4. PERSONS IN OPPOSITION

0000016

STATEMENT PREPARED FOR SUBMISSION TO THE D.C. ZONING COMMISSION BY THE DUPONT CIRCLE ADVISORY NEIGHBORHOOD COMMISSION (2B) AT THE PUBLIC HEARING, SEPTEMBER 8, 1976, on CASE NO. 76-15 (OCCUPANCY OF YARDS TEXT AMENDMENT).

The Advisory Neighborhood Commission supports the amendments to the zoning regulations proposed in Case No. 76-15.

By clarifying what is allowable in a side or rear yard as a matter of right, and what requires application to the BZA for a special exception, these amendments will give landowners more flexibility in the use of their land without prior BZA approval, and, we hope, help to reduce the BZA's caseload.

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ZONING COMMISSION
DISTRICT OF COLUMBIA

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Statement on Proposed Amendment
to D. C. Zoning Regulations
No. 76-15

Arthur H. Fawcett, Jr.

This statement is based primarily on my experience as the appellant in BZA Appeal No. 11158, a case which was probably the principal cause of this proposal. I have some additional insight into the problems involved as a professional urban planner: I have prepared zoning ordinance texts for a number of city and county jurisdictions.

The principal effect of this proposed amendment will be on construction on lots which slope downward from street level, of which there are a great many in the city of Washington. Under the current interpretation of the regulations, virtually any structure or extension of a building is permitted in a required rear yard if it is below the main floor of the principal building on the lot. If the level of the ground in the rear yard is several feet below the main floor level, a very substantial building or structure can be built in the required rear yard. In the case of my house and its neighbors, the main floor is three or four feet above the street level (as you know, this is a very common arrangement in Washington) and the ground level in the rear yard is six or seven feet below the elevation of the street; thus rear-yard structures can be as high as eleven feet above grade under the current interpretation of the regulations.

This current interpretation is based on the inclusion in the Zoning Regulations definition of "building area" of a phrase exempting portions of buildings below the main floor from the measurement of that area. In spite of the fact that the only use of the term building area is in the measurement of lot coverage and that the below-main-floor exemption does not occur elsewhere in the ordinance, the Zoning Administrator has interpreted this phrase to exclude buildings and structures below the main floor of the main building from rear-yard regulations. The interpretation originated in a case (BZA Appeals Nos. 6505 and 6509; District Court for the District of Columbia Civil Action No. 3061-62) involving the 1789 Restaurant in Georgetown; it was extensively argued then and in my own case (BZA Appeal No. 11158; D.C. Court of Appeals Action No. 7818). I believe that the rationale for the interpretation is thoroughly in error (the D.C. Court of Appeals made a point in its remand of my case to the BZA of citing my arguments against the interpretation as "persuasive"); apparently Mr. Harps of the BZA feels at least that it is harmful and should be corrected.

According to the Zoning Administrator's testimony in my appeal to the BZA, the majority of the structures permitted under this interpretation have been rear porches or decks providing exterior living space above ground

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level in situations where the ground either is a distance below the main floor or slopes downward away from the main floor. If such a structure extends to the rear lot line it clearly conflicts with the purpose of rear yard regulations which, among other things, are intended to assure the availability of light and air between buildings. Norman Williams states in his treatise American Land Planning Law that "in medium- and high-density districts yard requirements play a critically important role in ensuring an adequate supply of light and air..." The importance of open rear yards in row-house districts, where there are few side yards, is particularly great. In the case of the decks permitted under this interpretation of the D.C. Zoning Regulations on sloping terrain, the downhill neighbor can be subjected to a structure on his lot line and extending high into the air. But if these structures are prohibited in the required rear yard, as I believe they should be, the downhill abutter is assured at least that they will be set back the width of the required yard.

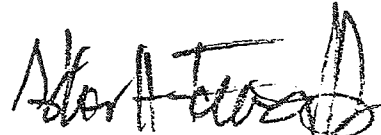
The Proposed Amendment. I believe that the intent of the proposed amendment is good: to prevent--or at least to provide BZA review of--the type of situation that I have described. It seems to clarify the current interpretation which applies the below-main-floor exemption to other regulations and provides for such legitimate exceptions as swimming pools, terraces, and other structures below four feet above grade, as well as fences and access stairways.

However, the proposed Section 7602.24 completely obliterates the beneficial effect of the rest of the proposal by permitting below-main-floor structures under virtually the same conditions under which they are now permitted. I am told informally by a member of the Corporation Counsel's staff that if the Board decides that the explicit special-exception conditions will be met they have no further discretion to deny a special exception, even in the worst of situations--for example, I believe that the deck which was the subject of my appeal would have met the conditions and the Board would have to have approved it.

But even if the Board is given the power to deny applications for this special exception for reasons other than the specified conditions, I believe that the special exception portion of this proposal is unnecessary and clearly against the interests of the community. By definition, yards must be clear and open; this is necessary to provide a minimally acceptable level of light and ventilation to residential buildings. I can conceive of few situations in which the proposed exception would be either necessary to the person using it or beneficial to the community as a whole. One possible exception would be for a stairway providing access to the yard. This should be infrequent--in my case, the houses in the block have access to rear yards through the lower floor, which is entirely above grade in the rear yard, and the owners of the deck we objected to need such access only because their lower floor is occupied by a separate (and illegal) apartment. In this connection, I believe that the height limitation on stairways which is currently proposed may be too restrictive.

I would not propose changing current regulations permitting certain projections and accessory buildings in required rear yards; as far as I can tell, these exceptions are justified. In fact, if it is decided to retain the proposed special exception portion of this amendment for any reason, I would suggest that a further condition on such a special exception should be a limitation to a maximum of 30 per cent coverage of the required yard, as is now the case for accessory buildings. This could eliminate some of the objectionable impact and would be consistent with the accessory-building regulations.

In summary, I favor the proposed amendment, possibly subject to a change in the dimensional limits on access stairways, but I oppose the proposed Section 7602.24, providing for construction of structures in required rear yards as a special exception.

A handwritten signature in dark ink, appearing to read "Arthur H. Fawcett, Jr.", with a stylized, looped flourish at the end.

Arthur H. Fawcett, Jr.
1335 30th Street, N.W.
Washington, D. C. 20007

0000038

LENORE W. BRYAN
1331-30TH STREET, N. W.
WASHINGTON, D. C. 20007

Sept. 3, 1976

Sec. Zoning Commission
District Bldg
Washington, D. C.

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SEP 3 1976
ZONING
COMMISSION
DISTRICT
BUILDING

Dear Sirs:

Re case # 76-15.

I wish to speak in
opposition to the proposed
changes in case # 76-15
at the public hearing
Sept. 8, 1976.

Very truly yours,

Lenore W. Bryan

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OFFICE OF THE CORPORATION COUNSEL, D. C.

September 2, 1976

TO: Arthur B. Hatton
Executive Secretary to the Zoning Commission

FROM: Leo N. Gorman 
Assistant Corporation Counsel
Appellate Division

IN RE: Case No. 76-15: Proposed Text Amendment Relating
to What Structures May Occupy a Yard

It appears that proposed Section 7602.24 is intended to authorize the Board of Zoning Adjustment to approve structures such as "sundecks" so long as the three conditions are met. Conditions 1 and 3 give me no problem. Condition 2, however, dealing with the blocking of light and ventilation is rather vague. It appears that the Commission intends ^{the} ~~to~~ phrase "light and ventilation" to mean that light and ventilation required by other regulations such as Section 2308 of the Housing Regulations. If this is the case, then condition 2 should be amended to make this clear. The phrase "required by any law or regulation," or something similar, should be inserted between "ventilation" and "for" and set off by commas.

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2450 39th Street, N. W.
Washington, D. C. 20007
August 31, 1976

Mr. Arthur B. Hatton
Executive Secretary to Zoning Commission
Office of Zoning Commission, Room 9
District Building
14th & E Streets, N. W.
Washington, D. C. 20004

Re: Case No. 76-15 (Occupancy of Yards Text Amendment)

Dear Mr. Hatton:

I have been informed that in the above-referenced matter the Zoning Commission is considering an amendment to the existing zoning regulations which would permit, under certain conditions, the erection of a deck structure on lots which, under present law, would not be eligible for such a structure. As I understand, the proposed amendment would permit the erection of a deck structure if it is below the first floor joists and otherwise does not interfere with air and light to the property and contiguous property.

The purpose of this letter is to voice my strong support for this proposed amendment.

Sincerely,

R. N. Albright, Jr.
Ralph N. Albright, Jr.

RNA/fw

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ZONING COMMISSION

ABH
9/11/76

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1335 30th Street, N.W.
Washington, D. C. 20007

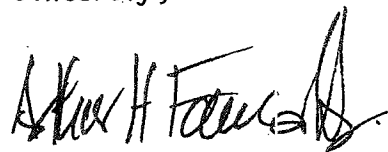
August 13, 1976

Secretary of the Zoning Commission
District Building, Room 11
14th and E Streets, N.W.
Washington, D. C. 20004

Dear Sirs:

I hereby express my intention to testify in the hearing in Case
No. 76-15, scheduled for September 8, 1976.

Sincerely,



Arthur H. Fawcett, Jr.

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ZONING DISTRICT OFFICE
WASHINGTON, D.C. 20004

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District of Columbia Zoning Commission

NOTICE OF PUBLIC HEARING

TIME AND PLACE: Wednesday, September 8, 1976, 10:00 a.m.,
Room 11A, District Building, 14th and E
Streets, N.W.

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

CASE NO. 76-15 (Occupancy of Yards Text Amendment)

Proposed amendment to the text of the Zoning Regulations of the District of Columbia, pursuant to the Zoning Act (Act of June 20, 1938, 52 Stat. 797, as amended, Section 5-413 et. seq. of D.C. Code, 1967 ed.).

This case has been initiated by the Zoning Commission. The public hearing on this case will be conducted in accordance with the provisions of Part III of the Rules of Practice and Procedure of the Zoning Commission of the District of Columbia (18 D.C. Register 891, Supp. No. 3, July 6, 1972). Pursuant to said Rules the Commission will impose the following time limitations on testimony presented to it in this public hearing; 10 minutes for an individual and 15 minutes for an organization or association.

All individuals and organizations or associations wishing to testify in this case must file their intention to testify in writing with the Secretary of the Zoning Commission, District Building, Room 11, 14th and E Sts., N.W., Washington, D. C. 20004, no later than September 3, 1976.

-2-

It is proposed to amend the Zoning Regulations to clarify which structures may occupy a side or rear yard required by the Zoning Regulations. The proposed amendments would prohibit any structure (by definition, "anything constructed, including a building, the use of which requires permanent location on the ground . . .") from occupying a yard, except for the following:

1. A structure, but not a building, may occupy a yard if it is less than 4 feet out of grade in its entirety (e.g., air conditioner compressor, swimming pool, etc.)
2. A fence or retaining wall is permitted.
3. Stairs leading from the main story to the ground are permitted, provided that the highest tread is not more than 8 feet out of grade.
4. There will be no change in the provisions of Section 7601 which currently permit accessory buildings in rear yards.

The proposed amendments also authorize the BZA to allow a structure, but not a building, to occupy yards in excess of the above limitations provided:

1. the structure is below the level of the main floor;
2. there will be no blocking of light or air;
3. access to the yard will not be diminished.

The specific text language is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows:

"An exterior space, other than a *court*, on the same lot with a *building* or other *structure*. A *yard* required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any *building* or *structure* except as specifically provided in these Regulations."

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified *structures*, every part of a *yard* required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A *structure*, not including a *building*, which is four or less out of grade in its entirety may occupy any *yard* required under the provisions of these Regulations.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any *yard* required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the *story* in which the principal entrance of a building is located may occupy any *yard* required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code. The level of the highest tread or platform shall not exceed 8 feet out of grade, and the stairs shall not project further than 4 feet into the required yard.

7602.24 The Board of Zoning Adjustment is hereby authorized to permit a *structure*, not including a *building*, to occupy a *yard* required under the provisions of these Regulations if such occupancy is not otherwise permitted as a matter-of-right, provided:

1. Any such *structure* shall be located entirely below the level of the *main floor*, except for any railing required by the Building Code.
2. Any such *structure* will not block light and ventilation for any *building* located on the subject property or any abutting properties.
3. Any such *structure* shall not lessen access from any building on the lot to the required *yard*.

3. Amend Sub-section 8207.2, jurisdiction of the BZA to grant special exceptions, to add to the table of special exceptions the following:

<u>Type of Special Exception</u>	<u>District</u>	<u>Section, Paragraph or Sub-paragraph in which conditions are specified</u>
Structure in required yard	any District	7602.24

Written statements, in lieu of a personal appearance or oral presentation, may be submitted for inclusion in the record. Information should be forwarded to the Executive Secretary to the Zoning Commission, Office of the Zoning Commission, Room 9, District Building, 14th and E Streets, N.W., Washington, D. C. 20004. Please include the number of the particular case.

RUBY B. MCZIER, THEODORE F. MARIANI, RICHARD L. STANTON, WALTER B. LEWIS
GEORGE M. WHITE -- ZONING COMMISSION OF THE DISTRICT OF COLUMBIA, By
ARTHUR B. HATTON, Executive Secretary.

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Government of the District of Columbia
EXECUTIVE OFFICE

Municipal Planning Office
District Building
Washington, D.C. 20004

July 21, 1976



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ZONING COMMISSION
DISTRICT OF COLUMBIA

M E M O R A N D U M

To: D.C. Zoning Commission

From: Ben W. Gilbert, Director
Municipal Planning Office

Subject: Proposed Text Amendment regarding Occupancy of Yards

At its public meeting held on Thursday, July 8, 1976, the Zoning Commission received a memorandum outlining two proposals to amend the text of the Zoning Regulations from William S. Harps, chairman of the Board of Zoning Adjustment. The Commission voted to set down for a public hearing the proposal related to the occupancy of yards required by the Zoning Regulations. The Commission directed the staff to prepare actual text language for an amendment to the Zoning Regulations, and to schedule a public hearing on such language for September 8, 1976.

It is herein proposed to amend the Zoning Regulations to clarify which structures may occupy a side or rear yard required by the Zoning Regulations. The proposed amendments would prohibit any structure (by definition, "anything constructed, including a building, the use of which requires permanent location on the ground . . .") from occupying a yard, except for the following:

1. A structure, but not a building, may occupy a yard if it is less than 4 feet out of grade in its entirety (e.g., air conditioner compressor, swimming pool, etc.).
2. A fence or retaining wall is permitted.
3. Stairs leading from the main story to the ground are permitted, provided that the highest tread is not more than 8 feet out of grade.
4. There will be no change in the provisions of Section 7601 which currently permit accessory buildings in rear yards.

The proposed amendments also authorize the BZA to allow a structure, but not a building, to occupy yards in excess of the above limitations provided:

1. the structure is below the level of the main floor;
2. there will be no blocking of light or air;
3. access to the yard will not be diminished.

The actual text language is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows:

"An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations."

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, which is four feet or less out of grade in its entirety may occupy any yard required under the provisions of these Regulations.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code. The level of the highest tread or platform shall not exceed 8 feet out of grade, and the stairs shall not project further than 4 feet into the required yard.

7602.24 The Board of Zoning Adjustment is hereby authorized to permit a structure, not including a building, to occupy a yard required under the provisions of these Regulations if such occupancy is not otherwise permitted as a matter-of-right, provided:

1. Any such structure shall be located entirely below the level of the main floor, except for any railing required by the Building Code.
 2. Any such structure will not block light and ventilation for any building located on the subject property or any abutting properties.
 3. Any such structure shall not lessen access from any building on the lot to the required yard.
3. Amend Sub-section 8207.2, jurisdiction of the BZA to grant special exceptions, to add to the table of special exceptions the following:

<u>Type of Special Exception</u>	<u>District</u>	<u>Section, Paragraph or Sub-paragraph in which conditions are specified</u>
Structure in required yard	any District	7602.24

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Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 148

CASE NO. 76-15

FEBRUARY 2, 1977

Pursuant to notice, a public hearing of the Zoning Commission was held on September 8, 1976, to consider an amendment to the text of the Zoning Regulations. The Commission having met and having determined that it is appropriate to redefine a yard and clarify what structures may project into said yards, which provisions will further the purpose and intent of the Zoning Regulations, the Commission hereby ORDERS the adoption of the following amendments to the text of the Zoning Regulations:

TEXT CHANGE INSTRUCTIONS

1. Amend Section 1202, Definition, to redefine a yard as follows:

"An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure, except as specifically provided in these regulations. No such building or structure shall occupy in excess of 50 percent of a yard required by these regulations".

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

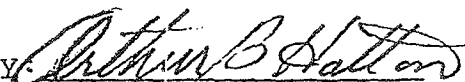
7602.21 A structure, not including a building, no part of which is more than four feet above the grade at any point may occupy any yard required under provision of the regulations. Any railing required by the Building Code shall not be calculated in the measurement of such height.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provision of these regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under provisions of these regulations. Such stairs should include any railing required by the Building Code.

BY ORDER OF THE DISTRICT OF COLUMBIA ZONING COMMISSION


RUBY B. MCZIER
Chairperson

ATTESTED BY 
ARTHUR B. HATTON
Executive Secretary

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Government of the District of Columbia

ZONING COMMISSION



BENCH MINUTES

September 8 and 9, 1976

Public Hearing

Z.C. Cases No. 76-7, 76-10 & 76-15

I. The hearing commenced at 10:05 A.M. on September 8, 1976

II. ZONING COMMISSION MEMBERS PRESENT

Ruby B. McZier, Esq., Chairperson
Walter B. Lewis
Richard L. Stanton
George M. White

COMMISSION STAFF PRESENT

Arthur B. Hatton, Executive Secretary

OTHER AGENCY STAFF PRESENT

Ben W. Gilbert, Director	MPO
Steven E. Sher	MPO
Kenneth T. Hammond	MPO
George Oberlander	NCPC
James J. Fahey	DHCD

- III. In the course of the hearing the Chairperson made the following rulings and requests for additional information:
- A. Strike paragraph 40, page 18, Notice of Public Hearing, Case No. 76-7, re: subsection 3105.53.
 - B. The proposed text Case No. 76-7 should be changed to include "District of Columbia" before all named referral agencies which are agencies of the District of Columbia.
 - C. M.P.O. should develop appropriate amendments to cover Advisory Neighborhood Commissions and at a later date after appropriate notice, we should consider across the board inclusion of Advisory Neighborhood Commission regulations.

Bench Minutes

September 8 and 9 1976

Z.C. Cases No. 76-7, 76-10 & 76-15

Page 2

- D. The Zoning Secretariat should develop a system for making adopted regulation amendments available to the public.
- E. MPO in cooperation with the Corporation Counsel Office should report on the status of cases and projects commenced under the old regulations.
- F. The Corporation Counsel's staff should report to the Commission on the status of proposed subsection 3308.15, which was not in the original hearing notice.
- G. The phrase, "above the height limit," should be inserted in subsection 3308.15.

IV. At 2:15 P.M. the hearing was recessed to the afternoon of September 9, 1976, for the purpose of hearing testimony from Mr. William S. Harps, Chairperson, Board of Zoning Adjustment.

V. The hearing reconvened at 4:08 P.M. on September 9, 1976.

VI. ZONING COMMISSION MEMBERS PRESENT

Ruby B. McZier, Esq., Chairperson
Walter B. Lewis
Richard L. Stanton

COMMISSION STAFF PRESENT

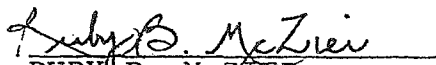
Arthur B. Hatton, Executive Secretary
Reginald C. Lyons, Special Assistant

OTHER AGENCY STAFF PRESENT

Ben W. Gilbert	Director,	MPO
Kenneth T. Hammond		MPO
Steven E. Sher		MPO
Lewis Robbins,		Corporation Counsel Office
Ed Curry		Corporation Counsel Office

Bench Minutes
September 8 and 9 1976
Z.C. Cases No. 76-7, 76-10 & 76-15
Page 3

- VII. The Chairperson stated that the hearing record would remain open for two weeks from September 8, 1976.
- VIII. The hearing was adjourned at 4:50 P.M.


RUBY B. McZIER
Chairperson


ARTHUR B. HATTON
Executive Secretary

0000027



NATIONAL CAPITAL PLANNING COMMISSION

1325 G Street, N.W.
Washington, D. C. 20576



In Reply Refer To:
NCPC File No. 1637

Zoning Commission for the
District of Columbia
District Building, Room 11
Washington, D.C. 20004

Gentlemen:

The National Capital Planning Commission, at its meeting on January 13, 1977, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), reported to the Zoning Commission for the District of Columbia on its proposed amendments to the Zoning Regulations of the District of Columbia relating to occupancy of yards (Zoning Commission Case No. 76-15), that the proposed amendment (1) would not be inconsistent with the Comprehensive Plan for the National Capital and (2) would not have a negative impact on the interests or functions of the Federal Establishment within the National Capital.

A copy of the Executive Director's Recommendation, as approved by the Commission, is enclosed for your information.

Sincerely yours,

Charles H. Conrad

Charles H. Conrad
Executive Director

Enclosure

cc: Mr. Gilbert, MPO

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NATIONAL CAPITAL PLANNING COMMISSION

WASHINGTON, D.C. 20576

NCPC File No. 1637

PROPOSED AMENDMENTS TO THE ZONING REGULATIONS
OF THE DISTRICT OF COLUMBIA
RELATING TO OCCUPANCY OF YARDS
(ZONING COMMISSION CASE NO. 76-15)

Executive Director's Recommendation

January 13, 1977

The Executive Director recommends that the Commission, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), report to the Zoning Commission for the District of Columbia on its proposed amendments to the Zoning Regulations of the District of Columbia relating to occupancy of yards (Zoning Commission Case No. 76-15), that the proposed amendment (1) would not be inconsistent with the Comprehensive Plan for the National Capital and (2) would not have a negative impact on the interests or functions of the Federal Establishment within the National Capital.

* * *

The proposed amendment would redefine the definition of a yard and specifically provide the kinds of buildings and structures that could be located in required side and rear yards.

The amendments to the text of the Zoning Regulations proposed by the Zoning Commission would require the following modifications.

1. Set a maximum limit of 50 per cent for the area of a required yard which may be covered by buildings or structures.
2. Allow structures less than 4 feet high to occupy a yard.
3. Allow fences and retaining walls.
4. Allow stairs leading to the yard from the main floor without reference to the height or projection.
5. Eliminate the special exception which would give the BZA discretion to approve greater occupancy of yards.

The thrust of these changes is to allow low structures, fences and stairs in yards as a matter-of-right with a restriction on occupancy to insure that at least 50 per cent of a yard is left open. The removal of the restriction on height and projection of stairs allows for greater architectural flexibility without resulting in negative impacts for adjoining properties. The elimination of the special exception avoids the creation of a review process for which it would be difficult to develop standards to judge applications. The BZA would, of course, retain its power to grant a variance from the strict application of these Regulations in specific cases where a practical difficulty or hardship exists.

The complete text language for the revised proposal is as follows:

1. Amend Section 1202, Definitions, to redefine a yard as follows: "An exterior space, other than a court, on the same lot with a building or other structure. A yard required by these Regulations shall be open to the sky from the ground up, and shall not be occupied by any building or structure except as specifically provided in these Regulations. No such building or structure shall occupy in excess of 50 per cent of a yard required by these Regulations.

2. Amend Section 7602, Projections into Required Open Space, to add the following Sub-section:

7602.2 Except for the following specified structures, every part of a yard required under the provisions of these regulations shall be open and unobstructed to the sky from the ground up.

7602.21 A structure, not including a building, no part of which is more than four feet above the grade at any point may occupy any yard required under the provisions of the Regulations. Any railing required by the Building Code shall not be calculated in the measurement of such height.

7602.22 A fence or retaining wall constructed in accordance with the Building Code may occupy any yard required under the provisions of these Regulations.

7602.23 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under the provisions of these Regulations. Such stairs shall include any railing required by the Building Code.

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NATIONAL CAPITAL PLANNING COMMISSION

1325 G Street, N.W.
Washington, D. C. 20576



In Reply Refer To:
NCPC File No. 1637

JUN 24 1977

Zoning Commission for the
District of Columbia
District Building, Room 11
Washington, D.C. 20004

Gentlemen:

The National Capital Planning Commission, at its meeting on January 13, 1977, pursuant to Section 5 of the Act of June 20, 1938, as amended by the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 5-417), reported to the Zoning Commission for the District of Columbia on its proposed amendments to the Zoning Regulations of the District of Columbia relating to occupancy of yards (Zoning Commission Case No. 76-15), that the proposed amendment (1) would not be inconsistent with the Comprehensive Plan for the National Capital and (2) would not have a negative impact on the interests or functions of the Federal Establishment within the National Capital.

A copy of the Executive Director's Recommendation, as approved by the Commission, is enclosed for your information.

Sincerely yours,

A handwritten signature in cursive script, reading "Charles H. Conrad".

Charles H. Conrad
Executive Director

Enclosure

1977 JUN 24 AM 8 53

RECEIVED
DISTRICT OF COLUMBIA
PLANNING COMMISSION

BT