

October 1, 2021

TO: Board of Zoning Adjustment  
FR: Alan Gambrell, 1648 Argonne Place, NW, DC 20009, 202-441-7288, gambrell@aol.com  
RE: Case 20521 - 2240 Ontario Road NW  
Comments in Opposition to Special Exception Request for Lot Occupancy

I am writing to express opposition to the special exception request for lot occupancy to 65% for one simple reason: the **lot occupancy calculation is incorrect.**

**Applicant's Error.** The applicant misidentifies the current lot occupancy as 60%. However, the lot occupancy of the project is 69.99%, per the plat (Exhibit 33C). The plat depicts space in the rear, described as a "cellar" by the applicant (see 3D drawing from Exhibit 33B as submitted by the applicant, also attached for your convenience). However, the applicant has excluded this "cellar" from the lot occupancy calculation submitted with this special exception request.

**Issue of Concern.** If this goes unchallenged by the Board, DCRA might assert a precedent and forthwith exclude such space from lot occupancy calculations. This would constitute a rewrite of the zoning regulations—a task that is exclusively under the purview of the Zoning Commission.

**Zoning Regulations on Lot Occupancy.** According to following definitions in Subtitle B (emphasis added), "cellar" space is NOT excluded from lot occupancy. The regulations are unambiguous.

- B-100.2 – "Lot Occupancy: The percentage of the total area of a lot that is occupied by the total building area of all buildings on the lot."
- B-312.3 – "Building area shall be the maximum horizontal projected area of a principal building and its accessory buildings, measured at the ground level of the buildings and measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings."
- B-100.2 – "Building: A structure requiring permanent placement on the ground that has one (1) or more floors and a roof supported by columns or walls. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building."
- B-100.2 – "Building Envelope: The maximum three (3) dimensional space on a lot in which a building may be built as limited by the applicable development standards and other relevant limits and conditions of this Title."

Note: Rules of Measurement for Lot Occupancy in B-312.4 include exceptions for what is not included in "building area" and thus lot occupancy (e.g., cornices, eaves, awnings). A "cellar" is not listed as an exception.



3D VIEW

■ ■ R. MICHAEL CROSS  
■ ■ DESIGN GROUP