The Board of Zoning Adjustment
For The District of Columbia

Appeal of Zoning Administrator Decision to Issue Building Permit No. B2309496 (August 23, 2024)	BZA Appeal No.: 21231 (Temporary Case No.: BZATmp4576)

Appellants Courtney Bolin and William Gabler's Omnibus Reply to the 15th Street Homeowners' and Department of Buildings Prehearing Statements and Response to the 15th Street Homeowners' Motion to Strike (BZA Exs. 14, 15, 15A)

Department of Buildings ("DOB"), and Claire King and Brent Kroll ("15th Street Homeowners") filed their prehearing statements on March 5, 2025. BZA Ex. 14, 15. Additionally, the 15th Street Homeowners moved the Board to strike certain portions of Ms. Bolin and Mr. Gabler's amended prehearing statement. BZA Ex. 15, 15A. Ms. Bolin and Mr. Gabler respond to the arguments presented by the 15th Street Homeowners and DOB. Because none of their arguments support a finding that a new two-story detached accessory apartment can be built as a matter of right without any set back, Ms. Bolin and Mr. Gabler respectfully request that the Board grant their appeal, revoking Building Permit No. B2309496 ("Permit") and requiring the accessory apartment be brought into conformance with the Zoning Regulations ("Regulations").

Arguments

I. 15th Street Homeowners and DOB's Jurisdictional Arguments

Both the 15th Street Homeowners and DOB argue that the Board does not have jurisdiction over certain issues raised by Ms. Bolin and Mr. Gabler in their appeal. *See generally* BZA Exs. 14, 15. More specifically, they suggest that the Board may not consider the constitutional implications its enforcement decisions may have because it lacks jurisdiction; these positions, however, misconstrue the issues raised by Ms. Bolin and Mr. Gabler and ignore the Board's own obligations to residents when interpreting the Regulations. Both the Zoning Administrator and the Board should strive to avoid any interpretation of the

Regulations that renders them unconstitutional and thus unenforceable. Subtitle A § 101.7. Ms. Bolin and Mr. Gabler's appeal summarizes the unconstitutional implications of the Zoning Administrator's determination on their own property rights, as well as the rights of others if the determination is left uncorrected.

Should the Board determine that it is not empowered to consider the results of misapplying the Regulations, the constitutionality of the Board's decision is within the review jurisdiction of the District of Columbia Court of Appeals. Thus, at the very least, the facts and issues have been preserved in the record in the event that an appeal is necessary for Ms. Bolin and Mr. Gabler to enforce their constitutional rights.

II. Response to the 15th Street Homeowners' Motion to Strike

As part of their prehearing response, the 15th Street Homeowners submitted a motion to strike. BZA Ex. 15A (indicating that the motion was filed without attempting to obtain consent from the affected parties). In their prehearing response, they argue that Ms. Bolin and Mr. Gabler did not file their "Appeal Application Form and Supplemental Certificate of Service" until October 30, 2025. BZA Ex. 15 at 5.

This argument could have been resolved through a meet and confer prior to filing. Ms. Bolin and Mr. Gabler's appeal was timely filed on October 22, 2025. The appeal materials underwent an initial review for completeness (Subtitle Y § 400.1). After not receiving confirmation within five days, Ms. Bolin called Robert Reid in the Office of Zoning to confirm that the appeal materials were received. Mr. Reid confirmed and instructed her that service needed to be perfected by serving the Zoning Administrator at the correct address. Within hours of speaking with Mr. Reid, Ms. Bolin and Mr. Gabler perfected service. BZA Ex. 7. The Director then accepted their appeal as timely under Subtitle Y § 400.2, and Ms. Bolin and Mr. Gabler timely paid the appeal fee.

The 15th Street Homeowners further allege that four arguments should be struck from the record as "time-barred" and/or "not germane." BXA Ex. 15 at 6. These arguments, however, were timely filed and are both probative and relevant to the issues before the Board, as summarized in the table below.

15th Street Homeowners' Arguments (BZA Ex. 15 at 6–8)	**Ms. Bolin and Mr. Gabler's Responses**
"Appellants' Argument Pertaining to the Garage Demolition is Time-Barred and Not Germane."	These facts were timely presented (*e.g.*, BZA Ex. 2 at 4; BZA Ex. 11 at 3) and are relevant and probative. These facts are relevant because they assist the Board in its application of the Regulations—for example, the fact that demolition occurred precludes the Board from applying the provisions of Subtitle C relied upon by the 15th Street Homeowners' architect. These facts are probative because the Board must factor the age of the building into its analysis of the placement of the building on the property.
"Appellants' Claim That a Special Exception is Required Under Subtitle U is Time-Barred."	This issue was timely raised (*e.g.*, BZA Ex. 2 at 16–17). Ms. Bolin and Mr. Gabler have consistently argued that the Zoning Administrator erred by issuing the Permit as a matter of right without requiring the 15th Street Homeowners to meet the Regulations' requirements and that this mistake deprived Ms. Bolin and Mr. Gabler of their due process rights to appear before the Board.
"Appellants' Claim that the ADU Project Would Pose a Fire Hazard is Time-Barred and Not Germane."	These facts were timely presented (*e.g.*, BZA Ex. 2 at 21) (explaining that later construction would require any "existing windows" to be closed). Citations to the covenant, which is part of the Permit record, were added in Ms. Bolin and Mr. Gabler's amended prehearing statement to explain the implications of the Zoning Administrator's failure. They did not present a new issue, they merely provided citations and information to the public record to assist the Board in its decision making as permitted under Subtitle Y § 203.7. To the extent that the Board considers this information to add a new issue, Ms. Bolin and Mr. Gabler request the Board consider the issues because, despite multiple attempts to obtain more information from DOB, they have not received any response and thus were impeded from including information in their initial brief. Subtitle Y § 302.13. Further, the Board is obligated to address any public safety concerns resulting from an erroneous application of the Regulations. Subtitle A § 101.1.
"Appellants' Argument That Approval of Building Permit Would Deter Affordable Housing is Not Germane."	This argument is relevant and probative. To the extent the Board believes that the Regulations present any ambiguity, they must consider the purpose that the Regulations serve. By failing to enforce the Regulations, the Zoning Administrator has impacted the use of privately owned properties without due process or just compensation; should the Board adopt the Zoning Administrator's position, its own interpretation of the Regulations will present a constitutional violation that is unenforceable. Subtitle A §§ 101.7, 304.3

For at least these reasons, Ms. Bolin and Mr. Gabler respectfully request that the Board deny the 15th Street Homeowners' motion.

III. Response to DOB's Arguments Requesting Dismissal

In its prehearing statement, DOB argues that Ms. Bolin and Mr. Gabler added two new issues. BZA Ex. 14 at 3. These arguments, however, were timely filed and a as summarized in the table below.

DOB's Arguments (BZA Ex. 14 at 3)	Ms. Bolin and Mr. Gabler's Responses
Ms. Bolin and Mr. Gabler did not timely argue that "the project requires special exception relief because it does not comply with section U-253.8(c)(1)."	This issue was timely raised. *E.g.,* BZA Ex. 2 at 16–17 ("In addition to physical requirements [of] 11 DCMR, Subtitle D, Chapter 50, ***11 DCMR, Subtitle U, Chapter 2*** places [] additional use requirements on detached buildings serving as accessory apartments."). To the extent that the Board determines that the information provided in Ms. Bolin and Mr. Gabler's amended prehearing statement somehow adds a new issue, Ms. Bolin and Mr. Gabler request the Board consider the issues because, despite multiple attempts to obtain more information from the Zoning Administrator prior to filing their appeal, the Zoning Administrator did not explain that her interpretation of the Regulations at issue was premised on her knowledge of the regulatory history until the October 22, 2024 video conference. Thus, Ms. Bolin and Mr. Gabler were impeded from including information in their initial brief. Subtitle Y § 302.13.
Ms. Bolin and Mr. Gabler did not timely argue that "approval of the permit will deter the development of affordable housing in the Brookland neighborhood."	This issue was timely raised. *E.g.,* BZA Ex. 2 at 2 ("[F]ailure to enforce the Regulations impedes long-term growth in Ms. Bolin and Mr. Gabler's community by giving preferential treatment to homeowners with resources to construct accessory apartments before other neighboring homeowners could do the same, ***discouraging the development of affordable housing*** . . . ."), 9 ("Such preferential treatment discourages later-building homeowners from constructing accessory apartments, ***harming the District of Columbia's initiatives to increase affordable housing*** in residential house zones."), 20–24 (arguing that "the new nonconforming accessory apartment creates objectionable conditions to the neighboring properties by ***deterring the development of future affordable housing*** . . . .")

For at least these reasons, Ms. Bolin and Mr. Gabler respectfully request that the Board deny DOB's request to dismiss these arguments as untimely.

IV. Reply to the 15th Street Homeowners' Arguments

In their prehearing statement, which largely fails to respond to the evidence and arguments Ms. Bolin and Mr. Gabler presented, the 15th Street Homeowners declare that a freestanding "detached accessory dwelling" is not a "a building that is completely separated from all other buildings," and thus never requires side yards. BZA Ex. 15 at 9–10; *see also* BZA Ex. 15 at 4 ("As Subtitle D § 5004 does not impose side yards requirements for accessory structures in the R Zone, the Appellants' argument is baseless and the Building Permit was properly issued."). In the limited attempts to respond on the merits of Ms. Bolin and Mr. Gabler's arguments, they suggest that Ms. Bolin and Mr. Gabler "spend a substantial portion of their appeal alleging that the ADU project is located within the Principal Structure's side yard." BZA Ex. 15 at 10. This is not accurate: Ms. Bolin and Mr. Gabler argue that the new two-story accessory apartment must comply with the side yards requirements placed on all detached buildings in the R-1B zone by the Regulations. Ms. Bolin and Mr. Gabler respectfully request that the Board consider the arguments they present, which are based on a thorough reading of the Regulations and extensive research into the regulatory history, and not rely on the unfair mischaracterization of their arguments presented by the 15th Street Homeowners. BZA Ex. 11.

The only argument that the 15th Street Homeowners advance—that "the only legal issue present in this appeal is whether the ADU project is located in the side yard or rear yard of the property"—is untethered from the Regulations.

First, they suggest that the Zoning Administrator can ignore the requirements placed on buildings in the residential zones in Subtitle D, Chapter 2 because Chapter 50 "governs the regulation of detached accessory dwelling units . . . and controls the regulation of ADUs whenever there is a conflict with Chapter 2." BZA Ex. 2 at 9–10. This argument not only illustrates the lack of care taken in characterizing the Regulations, it also supports Ms. Bolin and Mr. Gabler's appeal. Subtitle D, Chapter 50 does not once mention a "detached accessory dwelling unit." In reality, Subtitle D, Chapter 50 does not contemplate any

"dwelling" structure—it focuses on accessory buildings such as garages and sheds and relies on Subtitle D, Chapter 2 to gap fill the requirements for residential buildings that are used for "dwelling," including principal buildings and accessory apartments. Subtitle D § 5001.1 ("The development standards in Subtitle D, Chapter 2, shall apply to accessory buildings in the R zones except as specifically modified by this chapter. In the event of a conflict between the provisions of this chapter and other regulations of this title, the provisions of this chapter shall control."). If anything, the 15th Street Homeowners' argument concedes that Chapter 50 is inapplicable to the new two-story accessory apartment they are constructing and thus does not "specifically modify" or create any "conflict" that would allow it to control over Subtitle D, Chapter 2 in the situation at hand, BZA Ex. 15 at 11, n.2 (stating that Subtitle D § 5005 does not apply), thus supporting Ms. Bolin and Mr. Gabler's argument that Subtitle D, Chapter 2 governs. *See also* Subtitle D § 5001.1.

Second, the 15th Street Homeowners adopt the unsupported argument advanced by DOB: that the Regulations use definition for "accessory buildings" displaces the Regulations structural definitions that apply to all buildings. BZA Ex. 15 at 8. They provide no support for this interpretation, which is contrary to the Regulations. Were the Board to adopt this position, it would adopt a position that an accessory building cannot be a freestanding building that is separate from all other buildings. If this were true, then accessory buildings would not be permissible outside of the principal building, rendering the Regulations unworkable.

Instead, as Ms. Bolin and Mr. Gabler explain in their amended prehearing statement, the use and structural definitions provided by the Regulations are not mutually exclusive. BZA Ex. 11 at 15–17. Indeed, the 15th Street Homeowners appear to agree on this point: they argue that the building *used* as a "principal building" can be *structured* as a "detached building." BZA Ex. 11 at 8–9. They do not explain why the Board should adopt an inconsistent approach to buildings used as "accessory buildings." Nor how

such a position would work in practice; for example, would this mean that a homeowner could attach an accessory building to a neighbor's accessory building as a matter of right? The Regulations support the opposite: all buildings that are completely separated from other buildings (i.e., detached buildings) must comply with the Zoning Regulations regardless of the use they serve (i.e., buildings used as accessory apartments). The Regulations unequivocally require an eight-foot side yard setback in the matter presently before the Board. Subtitle D § 208.2 (explaining that a "minimum" of "eight feet . . . in width, ***shall*** be provided for all detached buildings").

Second, the 15th Street Homeowners suggestion that, because their accessory apartment is being constructed to the rear of the principal building, this appeal lacks merit is misguided. BZA Ex. 15 at 10. In support of this argument, the 15th Street Homeowners explain that they selected 15th Street as the "frontage" street of their principal building and that this means that the rear lot line abuts Ms. Bolin and Mr. Gabler's property. They do not cite any regulatory support for their argument, but they appear to rely on Subtitle B, Chapter 3 ("General Rules of Measurement"). This chapter only provides further support that the Board should grant Ms. Bolin and Mr. Gabler's appeal.

Subtitle B, Chapter 3 contemplates that lots in the R-1B zone may be improved with both a principal building and an accessory apartment. Subtitle B § 302.1. Because the Regulations allow two detached residential buildings on a single lot, this chapter contemplates that a "lot may have more than one (1) street lot line, and therefore more than one (1) front setback," Subtitle B § 313.3, as well as "more than one (1) rear lot line, Subtitle § 317.2. In the same vein, this chapter distinguishes the rules of measurement for "required rear yards" from the rules of measurement for "rear yards," and the rules of measurement for "required side yards" from the rules of measurement for "side yards." Subtitle B §§ 317.1 (explaining that "rear yards regulate the distance between a building and the rear lot line") 318.2 (explaining that the "depth of a required rear yard shall be measured from the mean horizontal distance

between the rear line of a building and the rear lot line"); 319.1. (explaining that "[s]ide yards regulate the distance between a building and a side lot line"); 320.1 (explaining that a "required side yard shall be parallel to a side lot line and apply to the entirety of principal buildings and structures").

The Regulations cited by the 15th Street Homeowners only serve as further illustration of the Zoning Administrator's oversight. Had the Zoning Administrator applied the rules in the chapter cited by the 15th Street Homeowners, she would have appreciated that a special exception was required prior to the issuance of the Permit. In R-1B, "all residential buildings" front setbacks "shall be provided within the range of existing front setbacks of all residential buildings on the same side of the street in the block where the building is proposed." Thus, to be issued as a matter of right without a special exception, the new accessory apartment should align with the other residential buildings on Irving Street—the street that the new accessory apartment faces. Likewise, on the side of the lot bordering Ms. Bolin and Mr. Gabler's property, the new accessory apartment was required to have a side yard of at least eight feet. Subtitle D § 208.2 (regulating "side yards" of at least eight feet for all detached buildings). Finally, in the area of the lot to the rear of the accessory apartment, the Regulations require a 25-foot rear yard (indicating at the minimum required rear yard for the accessory apartment would be at least 12.5 feet). The 15th Street Homeowners' lot can accommodate the required setbacks as the Regulations require. The Zoning Administrator failed to apply the Regulations and the 15th Street Homeowners are clinging to the windfall that the Zoning Administrator provided. *See* BZA Ex. 11B1 at 23–24 (Appellant's Ex. 6) (the 15th Street Homeowners declining Ms. Bolin and Mr. Gabler's offer to bear the costs of the Zoning Administrator's error as an act of goodwill because they found it not "viable based on how" complying with the Regulations would affect their "driveway and adjacent spaces").

Finally, the 15th Street Homeowners argue that because the "Regulations permit row structures and in some zones have no side yard requirements," that there is no constructive easement or constitutional

violation as a result of the Zoning Administrator's error. BZA Ex. 15 at 12. This argument lacks explanation and should not be entertained. Nonetheless, it is wrong. When a prospective buyer considers making an offer on a home, they assign a value to the property that they would be deeded. A buyer may consider how the property is zoned and thus what use it may serve, the improvements on the property (such as the structure and condition of the principal building), and any recorded or apparent burdens placed on the property. A buyer of a row home buys with an understanding of what they are buying. This is not comparable to the issue at hand because the R-1B zone does not allow row homes. In contrast, consider if a homeowner of a row home were facing a decision where the Zoning Administrator imposed the limitations on lots zoned for detached homes. The misapplication of the Regulations in that instance would be detrimental as well. Suppose that a row home is situated on a lot that is 20 feet wide in the R-3 zone. *See* Subtitle D § 202.1 (providing a 20-foot width minimum for row home lots in the R-3 zone). If the row home burned down and the Zoning Administrator imposed an eight-foot side yard on any new construction, her decision would render the property useless for the purpose it was purchased for. Were the error left uncorrected in that situation, the result would likewise be unconstitutional because the Zoning Administrator would be taking away a property right that the homeowner purchased without due process and just compensation.

For at least these reasons, the 15th Street Homeowners failure to rebut Ms. Bolin and Mr. Gabler's arguments and citations Subtitle B, Chapter 3 further support a finding that the Zoning Administrator erred by failing to faithfully apply the Regulations. Thus, the Board should find in Ms. Bolin and Mr. Gabler's favor.

V. Reply to DOB's Appeal Arguments

Much like the 15th Street Homeowners, DOB largely fails to respond to the evidence and arguments Ms. Bolin and Mr. Gabler presented in support of their appeal. Instead, DOB presents three

arguments in support of its position that the Zoning Administrator did not err in issuing the Permit as a matter of right.

First, DOB argues that "the proposed accessory building is not required to have an eight-foot side yard because section D-208.2 does not apply. BZA Ex. 14 at 3–4. DOB argues that Subtitle D, Chapter 2 is "supplanted" by Subtitle D, Chapter 50. BZA Ex. 14 at 4. Ms. Bolin and Mr. Gabler explain why, under the plain and ordinary language of the Regulations as well as the regulatory history, DOB's position is incorrect in their amended prehearing statement. BZA Ex. 11. DOB did not meaningfully respond to any of the support presented by Ms. Bolin and Mr. Gabler. Instead, it asks the Board to adopt a wholly unsupported position. In view of DOB's unsupported argument, Ms. Bolin and Mr. Gabler maintain that the Zoning Administrator's interpretation provides preferential treatment to the 15th Street Homeowners, departs from the regulatory requirements and erroneously granted the Permit without first requiring the 15th Street Homeowners to obtain the required a special exception. BZA Ex. 11. Further, as explained above (pages 8–9), had the Zoning Administrator properly applied the Regulations cited by both the 15th Street Homeowners and DOB in their prehearing statements (Subtitle B, Chapter 3), the 15th Street Homeowners would not have been able to obtain the Permit as a matter of right, and Ms. Bolin and Mr. Gabler would not suffer ongoing property damage due to the absence of the required side yard setback.[1]

Second, DOB argued that "the proposed accessory building is situated in the rear yard and complies with the applicable rear yard requirement." BZA Ex. 14 at 4. DOB explains that "the accessory building was able to be placed so close to Appellants' house" because it is located behind the principal

[1] In the days since filing their amended prehearing statement, Ms. Bolin and Mr. Gabler's property has undergone further trespass and damage. *See* Appellants' Exs. 111 (February 21, 2025 video), 112 (February 26, 2025 video). Construction workers have damaged the wooden retaining wall cover from walking on it. The wood was never intended to bear the amount of weight that workers have placed upon it during their trespass.

building. BZA Ex. 14 at 5. To support its position, DOB cited Subtitle B § 320.1 (regulating the requirement of "required side yards")—but ignores Subtitle B § 319.1 (regulating the measurement of "side yards")—and Subtitle D § 5004.1 (providing that an "accessory building" may be in a rear yard but not a required rear yard)—but not Subtitle B §§ 317.1 (explaining that "rear yards regulate the distance between a building and the rear lot line") 318.2 (explaining that the "depth of a required rear yard shall be measured from the mean horizontal distance between the rear line of a building and the rear lot line"). When the Regulations are properly applied, the detached accessory apartment must have an eight-foot side yard (distinct from the "required side yards" applied to principal buildings) as well as its own 12.5-foot "required rear yard" (but not a 25-foot "rear yard").

Third, DOB argues that "no special exception is required because permanent access to the accessory building is established through both the side yard to 15th Street and through the driveway to Irving Street." BZA Ex. 14 at 4. In support, DOB cites Subtitle U § 253.8(c) and explains that "the purpose of the permanent access is to ensure that emergency vehicles and personnel would be able to access the accessory building in the case of an emergency such as a fire." BZA Ex. 14 at 6. DOB explains that this case presents "an uncommon situation in that the Property is a corner lot with no alley in the square," and concedes that "the Property must rely on section U-253.8(c)(1) to meet the permanent access requirement." BZA Ex. 14 at 6. DOB then explains that the requirements of Subtitle U § 253.8(c)(1) may be "met in [one of] two ways: (1) through the eight-foot side yard going from the accessory building west towards 15th Street; and (2) through the driveway going from the accessory building north towards Irving Street." BZA Ex. 14 at 6.

This argument merely highlights that the Board must revoke the Permit. DOB maintains its position that accessory buildings are not detached buildings and thus are not required to have side yards—despite DOB's own habit of describing freestanding accessory buildings as "detached structure[s]," BZA

Ex. 11 at 16 (citing BZA Ex. 11B1 at 67 (Appellants' Ex. 27)). BZA Ex. 14. Thus, according to DOB, only principal buildings have side yards.

While this interpretation is clearly erroneous under the Regulations, it further supports Ms. Bolin and Mr. Gabler's position that the Permit should not have been allowed as a matter of right. Subtitle U § 253.8(c)(1) requires that a proposed "accessory apartment in an accessory building in an R zone" must have a "permanent passage . . . no narrower than eight feet in width, and extending from the accessory building to a public street through a ***side setback or shared recorded easement between properties***." The "eight-foot side yard going from the accessory building west towards 15th Street" cannot fulfill this requirement because it would be impossible for an emergency vehicle to reach the accessory apartment through this portion of the lot (due to retaining walls and a narrow stair case that is not eight feet wide). In fact, under DOB's reading of the Regulations, the only property that could provide the permanent passage required under Subtitle U § 253.8(c)(1) is Ms. Bolin and Mr. Gabler's property which possesses a side setback that meets the eight-foot minimum width requirement under Subtitle U § 253.8(c)(1). The 15th Street Homeowners possess no "recorded easement" to use Ms. Bolin and Mr. Gabler's property though. Thus, even accepting DOB's wholly unsupported position that accessory apartments are not required to comply with the side yards imposed on all detached buildings, the Permit should never have issued.

Finally, DOB argues that Ms. Bolin and Mr. Gabler's discussion of the regulatory history is irrelevant accept for "the initial proposal in Case No 08-06A," and that the Board lacks jurisdiction to entertain any argument relating to the constitutionality of the Zoning Administrator's interpretation of the Regulations. BZA Ex. 14 at 7. Neither position is accurate.[2] With respect to Ms. Bolin and Mr. Gabler's

[2] DOB also suggests—in a footnote—that "the wall check report submitted to DOB shows that the [proposed accessory apartment] is fully within the property lines," and that the "lot line covenant is a

regulatory history research, this information is relevant to the extent that the Board believes that plain and ordinary meaning of the Regulations—requiring all detached buildings to have eight-foot side yards—cannot be applied. Where there is ambiguity, the regulatory history is used to provide context and resolve any uncertainty. Ms. Bolin and Mr. Gabler's research shows that any ambiguity should be resolved in their favor. The Zoning Commission voted to enact regulations that required detached accessory apartments to go through the special exception process. *See* BZA Ex. 11 at 20–29. After voting, no subsequent amendment to the Regulations was intended to substantively change the Regulations governing accessory apartments. DOB does not dispute this point. Nor does it point to any provision showing that any subsequent change complied with the Regulations' public notice requirements. *See generally* Subtitle Z (applying notice and comment rulemaking procedures where substantive changes are proposed to the Regulations). The Board has authority to review the regulatory history of the Regulations to the extent that it is required to resolve any ambiguity. Subtitle Y § 100.4; D.C. Code § 6-641.07(g).

Conclusion

For at least the forgoing reasons, as well as those presented in their own amended prehearing statement, Ms. Bolin and Mr. Gabler respectfully request that Building Permit No. B2309496 be revoked, and that the proposed accessory apartment be set back the required eight feet from Ms. Bolin and Mr.

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requirement under the Construction Codes, which is outside of the jurisdiction of the Board." BZA Ex. 14 at 7 n. 2. Neither point is supported.

First, DOB does not cite the wall check that it alleges supports its position. Nowhere in the permit materials is there any support for DOB's position. Likewise, the 15th Street Homeowners do not contest that the accessory apartment encroaches on both neighbors' lots in their prehearing statement. The only support that is in the record proves that the construction encroaches. *See, e.g.*, BZA Ex. 11A at 3, 4, 23; BZA Ex. 11B1 at 35, 62; BZA Ex. 11 at 11–12.

Second, the Zoning Administrator's failure to enforce the Regulations is what triggered the construction covenant requirement. The issue is not whether the construction is safe—the issue is that the Zoning Administrator did not enforce the Regulations' set back requirements. But for her error, the covenant would not be required and would not pose a threat to public safety in the future. Ms. Bolin and Mr. Gabler are not seeking a determination that the construction is safe—they are explaining the implications and reach of the error.

Gabler's property line. To the extent that the 15th Street Homeowners ask for a special exception or variance, Ms. Bolin and Mr. Gabler respectfully request that the 15th Street Homeowners go through the required processes so that Ms. Bolin and Mr. Gabler are not deprived of their own due process rights to protect their own property and voice their own interests in front of the Board. Any other action would reward the 15th Street Homeowners' inequitable actions and the Zoning Administrator's preferential treatment of the 15th Street Homeowners in clear violation of the Regulations and the procedures that they impose.

Respectfully Submitted,
Courtney Bolin and William Gabler
Pro Se Appellants[3]

[3] Ms. Bolin is a licensed attorney in good standing with the D.C. Bar (Bar No. 1671517). She is appearing in this appeal on her own behalf.

Supplemental Exhibits

Exhibit	Link (too large to submit via email)
Exhibit 111 (February 21, 2025 video)	https://youtu.be/rvku5s2kUi0
Exhibit 112 (February 26, 2025 video)	https://youtu.be/itXmDhyKMaE

Certificate of Service

Courtney Bolin and William Gabler certify that, on March 7, 2025, they served notice of this filing on the required parties by emailing this reply brief to:

- The Office of the Zoning Administrator, dob@dc.gov
- Meridith Moldenhauer, mmoldenhauer@cozen.com
- Madeline Williams, madelinewilliams@cozen.com
- ANC 5B, 5B@anc.dc.gov

Respectfully Submitted,
Courtney Bolin and William Gabler
Pro Se Appellants