

Appellants' Presentation
BZA Appeal No. 21231
March 12, 2025

1507 Irving: Before Demolition (Appellants' Exs. 30, 32)



Survey Shows Prior Garage Encroached on One Neighboring Lot and Left Non-Compliant Setback from 1507 Irving

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., May 16, 2023

Plat for Building Permit of:
SQUARE 4017 LOT 22

Scale: 1 inch = 20 feet

Recorded in Book 62 Page 110

Receipt No. 23-04075

Drawn by: A.S.

Furnished to: MARK A. FREEMAN

I hereby certify that on this plat on which the Office of the Surveyor has drawn the dimensions of this lot, I have accurately and completely depicted and labeled the following:

- 1) all existing buildings and improvements - including parking spaces, covered porches, docks and retaining walls over four feet above grade, and any existing face-on-line or party wall labeled as such, well as projections and improvements in public space - with complete and accurate dimensions;
- 2) all proposed demolition or raze of existing buildings duly labeled as such; all proposed buildings and improvements - including parking spaces, covered porches, docks and retaining walls over four feet above grade, any existing face-on-line or party wall labeled as such, as well as projections and improvements in public space and the improvements used to satisfy previous surface or green area ratio requirements - with complete and accurate dimensions, in conformity with the plans submitted with building permit application;
- 3) any existing chimney or vent on an adjacent property that is located within 10 feet of this lot.

I also hereby certify that:

- 1) my depiction on this plat, as detailed above, is accurate and complete as of the date of my signature hereon;
- 2) there is no elevation change exceeding ten feet measured between lot lines, or if so, this elevation change is depicted on a site plan submitted with the plans for this permit application;
- 3) I have ~~not~~ not filed a subdivision application with the Office of the Surveyor;
- 4) I have ~~not~~ not filed a subdivision application with the Office of Tax & Revenue; and
- 5) if there are changes to the lot and its boundaries as shown on this plat, or to the proposed construction and plans as shown on this plat, that I shall obtain an updated plat from the Office of the Surveyor on which I will depict all existing and proposed construction and which I will then submit to the Office of the Zoning Administrator for review and approval prior to permit issuance.

The Office of the Zoning Administrator will only accept a Building Plat issued by the Office of the Surveyor within the two years prior to the date DCRA accepts a Building Permit Application as complete.

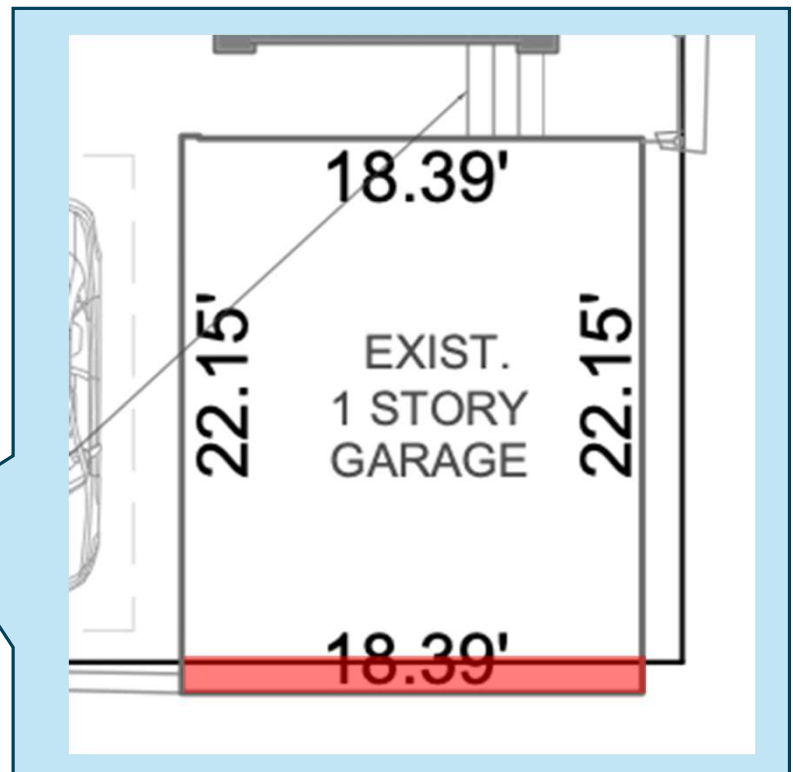
I acknowledge that any inaccuracy or errors in my depiction on this plat will subject any permit or certificate of occupancy issued in reliance on this plat to enforcement, including revocation under Sections 105.6(j) and 1105.2 of the Building Code (Title 12A of the DCMR) as well as prosecution and penalties under Section 404 of D.C. Law 4-164 (D.C. Official Code of Regulations 22-2805).

Signature: *Mark A. Freeman*
Date: 05/17/23
Printed Name: Mark Freeman, AIA, NCARB
Relationship to Lot Owner: Architect of Record

If a registered design professional, provide license number ARC 101947 and include stamp below.

0 10 30 60 100
SCALE: 1:20

SR-23-04075(2023) SHEET 1 OF 2



Building Permit (BZA Ex. 4)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PERMIT OPERATIONS DIVISION
Plan Approved

Form B-1 (03/2018) Date: 05/2018

All work must be done strictly in accordance
with the approved plans. Approval plans
shall be kept on the site until completion of
the construction. No inspection will be made
without approved plans on site. This approval
does not prevent a field inspection from
occurring. Inspections to work areas must
be made during inspection.

DC Department of Buildings
NEIGHBOR NOTIFICATION LETTER

DATE	9/29/23	PERMIT NUMBER	B2309496
ADDRESS OF PROPOSED WORK	3021 15th St NE, Washington, DC 20017		
OWNER INFORMATION		NEIGHBORING OWNER INFORMATION	
NAME	Brent Kroll	NAME	William Gabler
ADDRESS	3021 15th St NE, Washington, DC 20017	ADDRESS	1507 Irving St NE, Washington, DC 20017
PHONE	248-953-3809	PHONE	
EMAIL	kroll.brent@gmail.com	EMAIL	

The District of Columbia Municipal Regulations, 12A D.C.M.R. § 106.2.18.3, requires that owners of properties neighboring construction work be notified in writing prior to issuance of a permit.

DESCRIPTION OF WORK (SAME AS ON PERMIT APPLICATION):


EXIST. CLAY BLOCK & BRICK GARAGE & ACCESSORY STRUCTURE IN NEED OF REPAIR TO BE RE-BUILT IN PLACE W/ THE ADDITION OF A 2ND STORY & CONVERTED TO AN ACCESSORY DWELLING UNIT FOR A MAXIMUM OF A 3 PERSONS

This permit will include the following work requiring this notification:

- ☒ Excavation requiring a permit will occur on the construction site.
- ☐ There is a need to install permanent or temporary structural support for an adjoining premises or portion thereof, including but not limited to underpinning, as a result of the proposed work.
- ☐ The proposed work will alter imposed loads on a party wall or any load-bearing member of an adjoining premises. (i.e., vertical addition)
- ☐ Access to an adjoining premises is required to install protective measures or undertake other work required by Section 3307 (i.e., bracing of shared walls, install shared roof flashing, underpinning) to protect the neighboring property. (CHECK ONE)
 - ☐ Your permission is required to access your property. The permit applicant will contact you with additional documentation.
 - ☐ This access does not require permission as limited access is authorized by §3307.2.2 or §3307.4.1 of the District of Columbia Construction Code.
- ☐ The proposed work will render or potentially render adjoining or adjacent premises noncompliant with the Chimney Provisions (vertical addition will be within 2 feet of your chimney or vent, the permit applicant will need to make the chimney/vent code compliant) or with the snow load requirements (vertical addition may cause an increase in the amount of snow that accumulates on your roof. The permit applicant will need to examine your roof structure and determine if your roof will need to be reinforced)
- ☐ Applications for raze permits where the raze work involves any structural work within 3 feet of an adjoining lot line or excavation work more than 3 feet below existing grade

You can monitor the status of this permit submission by checking the DOB SCOUT application: <https://scout.dca.dc.gov/> Copies of the proposed plans are available on the DOB eRecords website: <https://dabonline.ms.dca.dc.gov/eRecords/>

Neighbor Notification Program - Neighbor Notification Form

 OFFICE OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF BUILDINGS
MICHAEL BOWSER, MAYOR

“EXIST. CLAY BLOCK & BRICK GARAGE & ACCESSORY STRUCTURE IN NEED OF REPAIR TO BE RE-BUILT IN PLACE W/ THE ADDITION OF A 2ND STORY & CONVERTED TO AN ACCESSORY DWELLING UNIT FOR A MAXIMUM OF A 3 PERSONS”

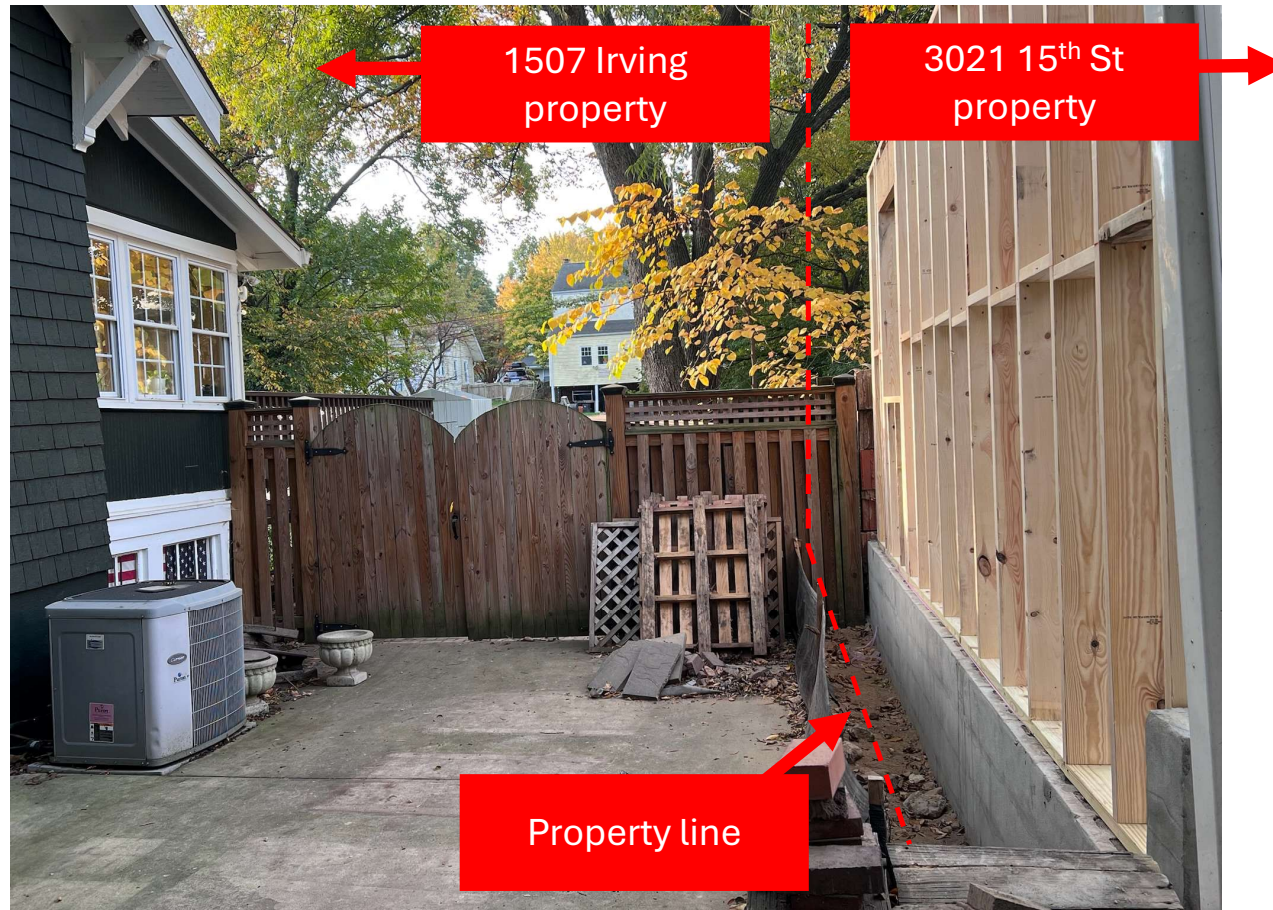
Another Accessory Apartment In Our Neighborhood (Appellants' Ex. 98)



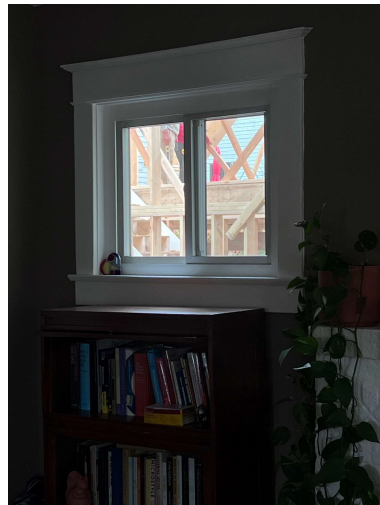
1507 Irving: After Demolition (Appellants' Ex. 33, 35)



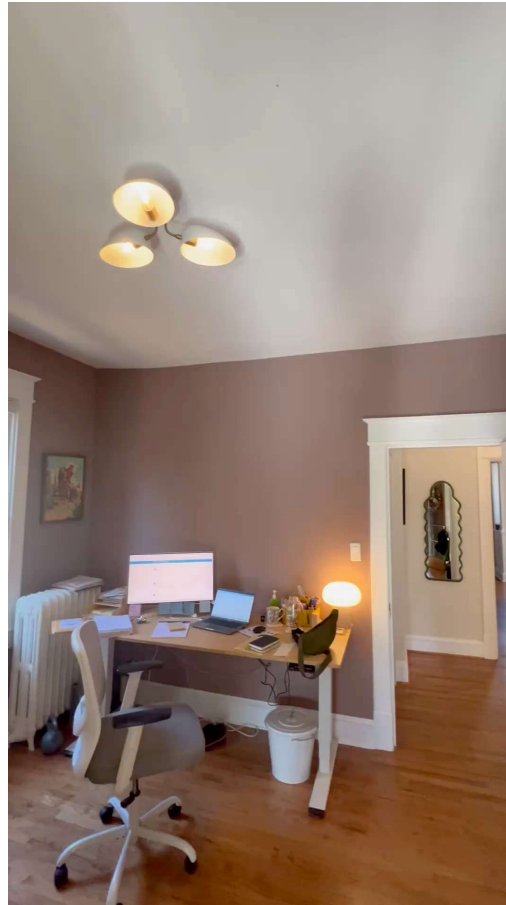
1507 Irving: Construction At Property Line (Appellants' Ex. 42)



1507 Irving: Windows Obstructed By Construction (Appellants' Exs. 45, 52, 53, 48)



1507 Irving: Electrical Issues From Vibrations Caused By Excavation and Construction (Video) (Appellants' Ex. 22)



Two Windows Broke In One Week During Excavation (Appellants' Exs. 93, 95, 106)



Workers Have Intentionally Damaged Property By Writing On Fence (Appellants' Ex. 80)



1507 Irving: Workers Do Not Ask Permission Before Entering Property (Appellants' Exs. 16, 18)

Workers Trespassed to Install Scaffolding on 1507 Irving Property



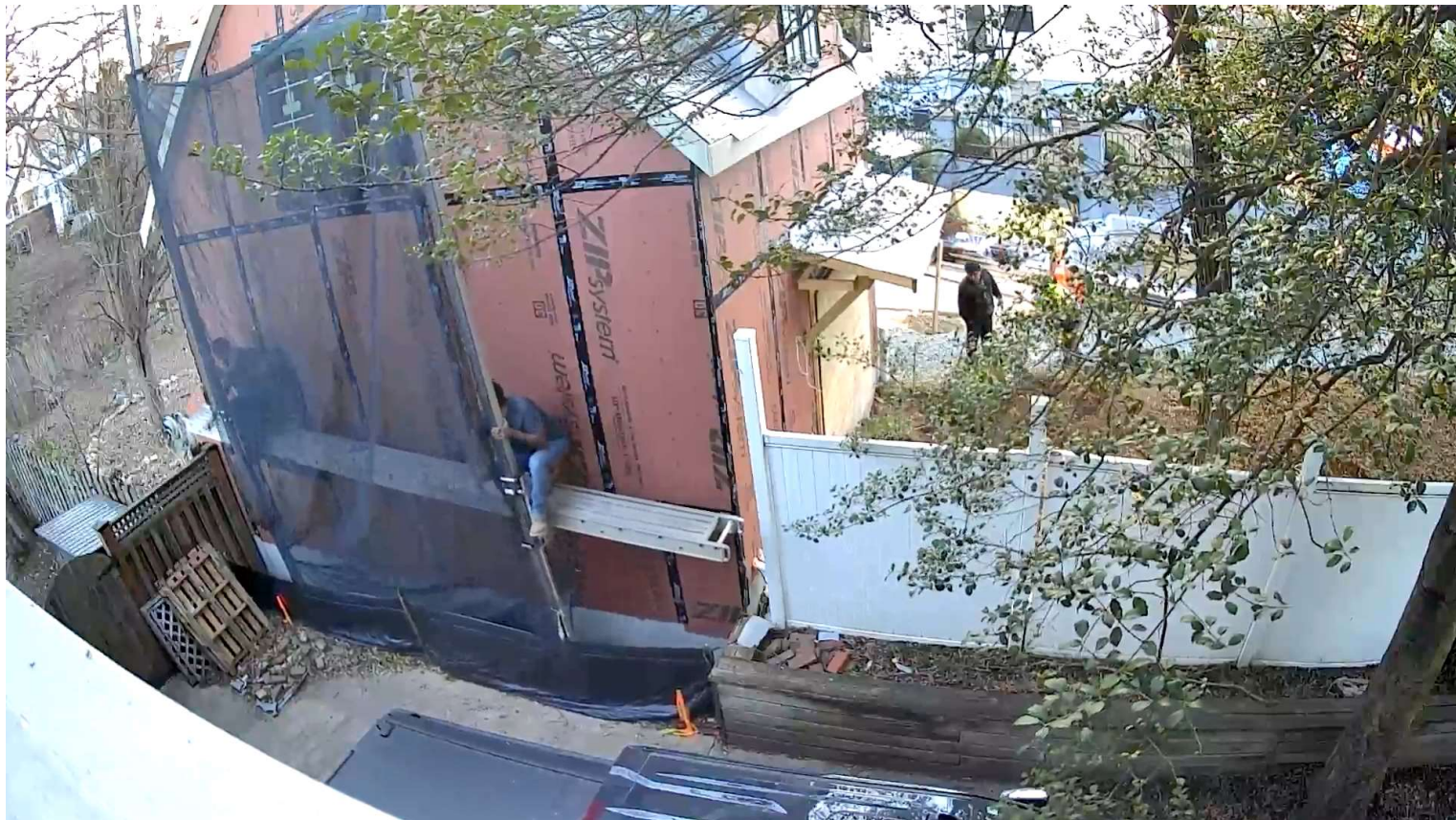
Workers Leaned Against Cars In Driveway (Covered in Saw Dust From Work)



Even With Scaffolding, Construction Workers Continue to Trespass (Appellants' Ex. 111)



Even With Scaffolding, Construction Workers Continue to Trespass (Appellants' Ex. 112)



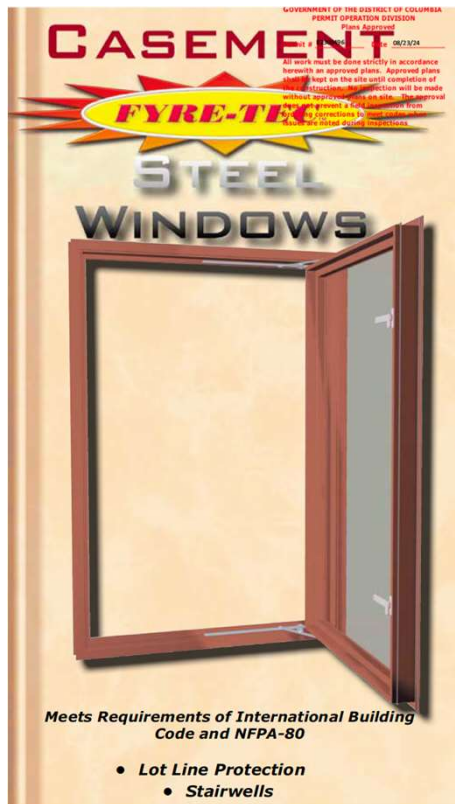
1507 Irving: Current Construction (Appellants' Ex. 87)



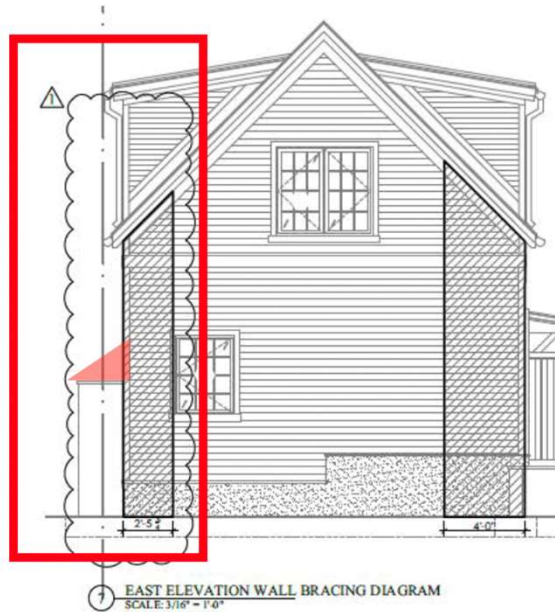
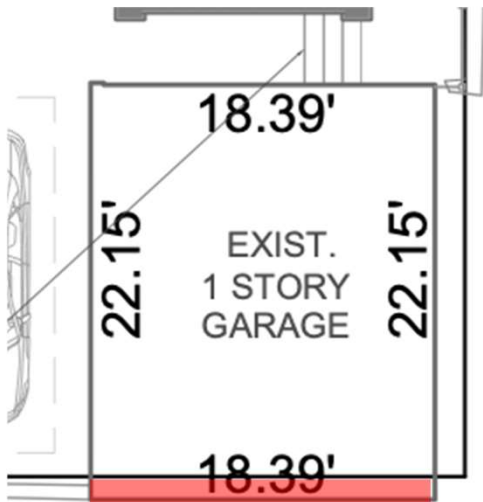
The Permit Should Never Have Issued Because The New Accessory Apartment Encroaches On Both Neighboring Properties (Appellants' Exs. 10, 25)



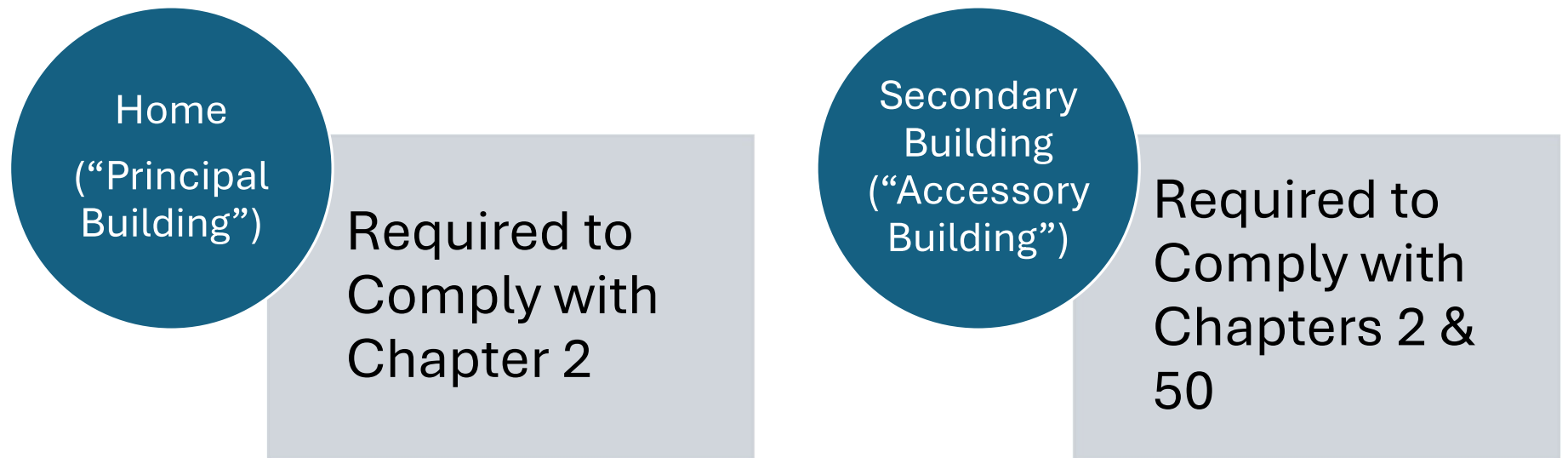
The Permit Should Never Have Issued Because The New Accessory Apartment Encroaches On Both Neighboring Properties (Appellants' Ex. 25)



The Permit Should Never Have Issued Because The New Accessory Apartment Encroaches On Both Neighboring Properties (Appellants' Exs. 1, 25)



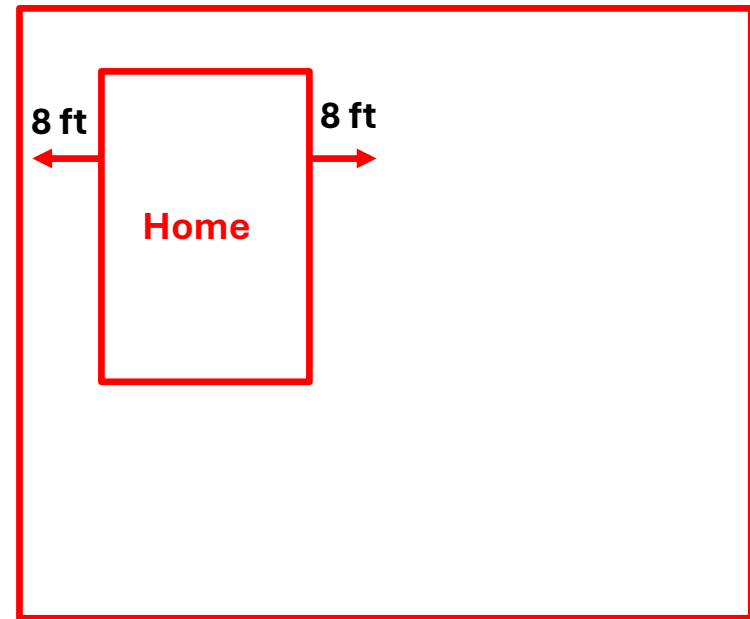
Subtitle D, Chapters 2 and 50



Subtitle D, Chapter 2

- **Chapter 2:**

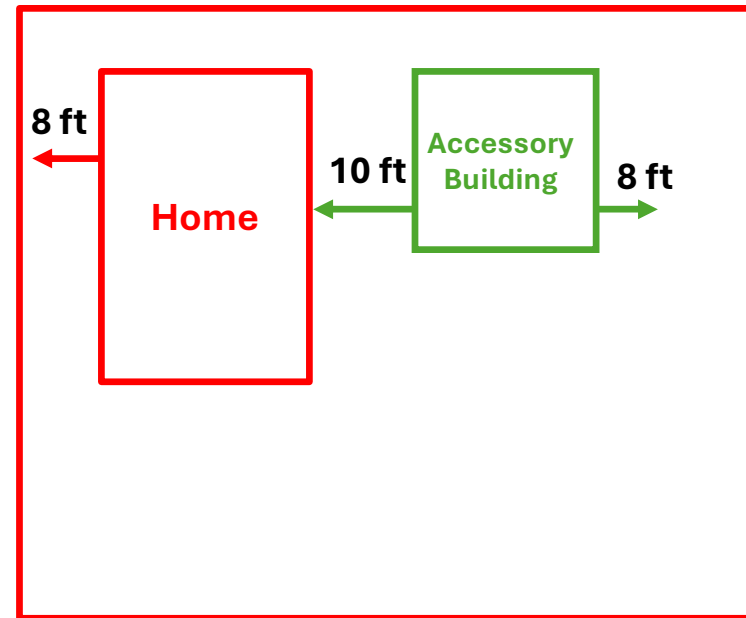
- 208.1: “[T]he minimum side yard requirements shall be as set forth in this section.”
- 208.2: “[A]ll detached buildings shall have side yards of “**eight feet** (8 ft.) in width.”
- 208.6 Existing conforming side yards shall **not be “eliminated.”**
- 208.7 “In the case of **a building with a non-conforming side yard**, an extension or addition may be made to the building” so long as “the width of the side yard adjacent to the extension or addition [is] a minimum of **five feet** (5 ft.).”



Subtitle D, Chapters 2 & 50

- **Chapter 50:**

- 5001.1: **Subtitle D, Chapter 2** “shall apply to **accessory buildings** ... 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.”
- 5005.1: An accessory building other than a shed may be built beside a home if it is removed from the side lot line a **distance equal to the required side yard** and from the principal building a minimum of **ten feet** (10 ft.).
- 5005.2: A **shed** may be located within a required side yard of a principal building



The Zoning Administrator Uses “Detached” to Describe Accessory Buildings (Appellants’ Exs. 27, 96)

(Page 1 of 1)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PLANNING AND ZONING COMMISSION
PLANNING BOARD

Exhibit A: 20230717-0001 Date: 20230717
All work must be done strictly in accordance
with the approved plans. No structural changes
shall be made without approval of the Planning
Board. The applicant shall be responsible for
obtaining all necessary permits from the
appropriate agencies. The applicant shall be
responsible for obtaining all necessary permits
from the appropriate agencies.

To: Ernesto Warren

From: Thom Martin – homeowner

Ref: B2308376 – Response to your comment on trellis connection

Date: September 5th and September 12, 2023

Dear M. Warren

I am writing / posting my communication to you in Project Dox as I am unsure of the process and haven't heard back from you via email on my communications on 9/5 and 9/12. I hope this approach meets your communication requirements. Here is the content of my two emails:

I received the following feedback from you in Project Dox: Per B-309, a trellis is no longer considered a meaningful connection, instead is exacerbating the non-conforming rear yard.

I checked with the architect, and they mentioned that they had received guidance from Daniel Calhoun, Zoning Technician on Mar 23rd Ref QV3-XQGVG that we should keep the trellis used on the current garage with the replacement building that is proposed.

Thank you for your inquiry. Per your drawing, the garage is currently attached to the house, and therefore would be considered an addition, and not an accessory structure. If the garage is replaced and NOT attached with trellis, then it WOULD be considered a detached structure, and would have to be placed in the EXACT SAME location. If the existing location is changed, then the Required Rear Yard of (25) ft. would be required. The (25ft) would start from either the rear of the house, or rear of the ATTACHED garage. There are no side yard setbacks for a detached garage located behind the rear of the house.

I hope this helps,
Daniel Calhoun
Daniel Calhoun
Zoning Technician
Office of the Zoning Administrator

I am not sure what the process is but can you consult with Mr Calhoun?

I would like to find a resolution for this issue. Maybe add a roof to the trellis or what do you recommend?

Thank you for your assistance in finding an acceptable solution to this issue.

Best
Thom Martin – Home Owner
Thom@MartinSladeResidential.com
(617) 834-9105

“Per your drawing, the garage is currently attached to the house, and therefore would be considered an addition, and not an accessory structure. **If the garage is replaced and NOT attached with trellis, then it WOULD be considered a detached structure**, and would have to be placed in the EXACT SAME location.”

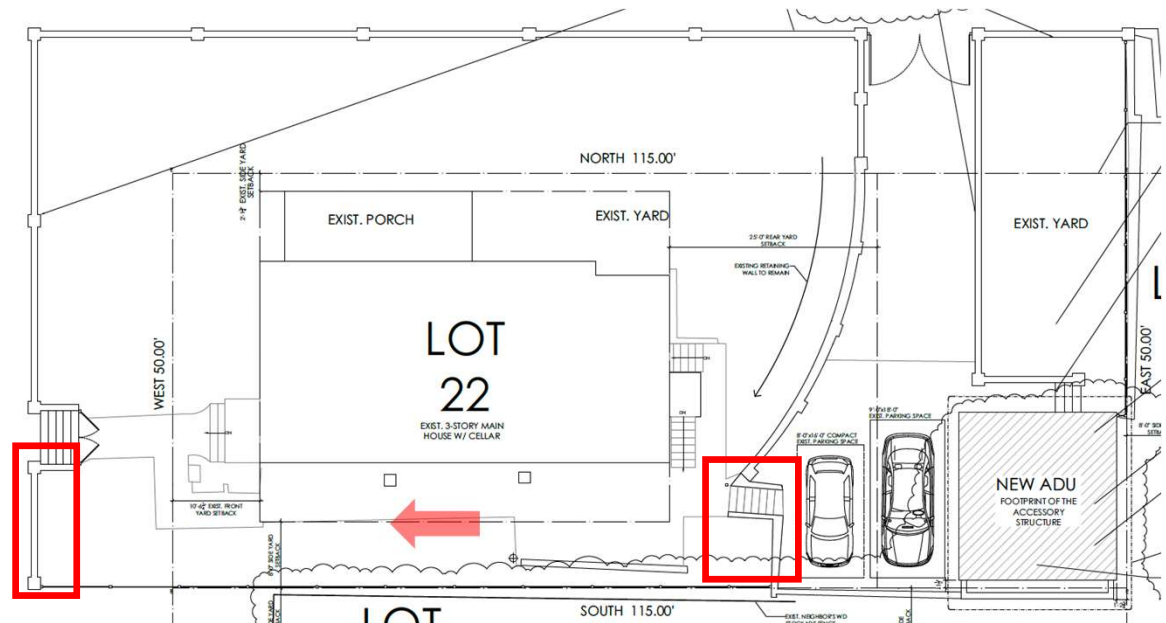


Even Under the Zoning Administrator's Erroneous Interpretation, the Permit Should Never Have Issued as a Matter of Right

- **Subtitle U § 253.8(c)(1):**

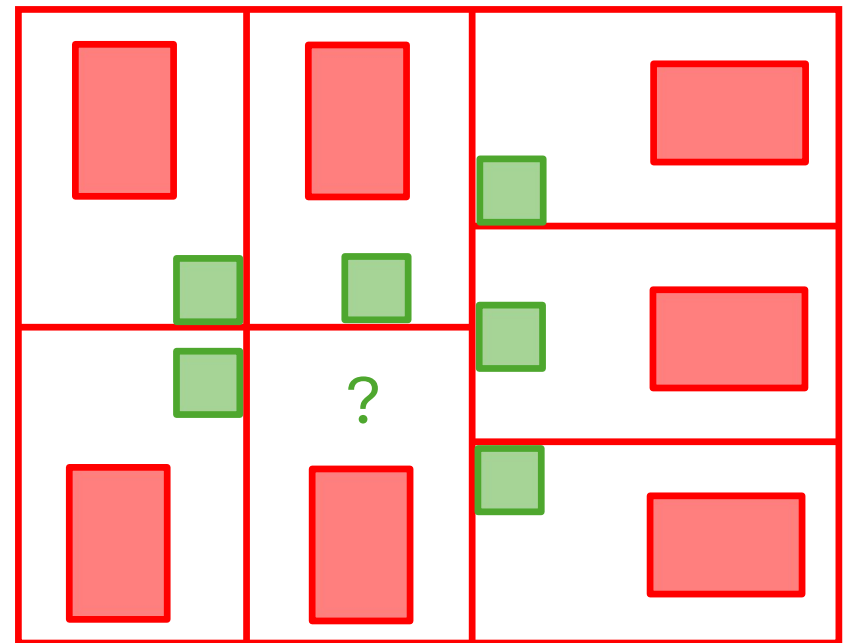
- An accessory apartment in an accessory building in an R zone . . . shall be permitted as a matter of right subject to the following conditions: . . .

(c)(1) The permanent access shall be provided by . . . [a] **permanent passage**, open to the sky, **no narrower than eight feet (8 ft.)** in width, and extending from the accessory building to a public street through a **side setback** or shared recorded easement between properties;



How Will This Impact Brookland?

- Unsustainable and inequitable
- Decreased fire safety
- Lost property rights and property damage
- Financially vulnerable residents most likely to be harmed
- Hostile neighbor relationships
- Neighbors opened to liability



Please Grant Our Appeal

