

Exhibit B

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**APPEAL OF
BURLEITH CITIZENS ASSOCIATION**

**BZA CASE NO. 21314
DELIBERATION DATE: July 22, 2026**

SUPPLEMENTAL STATEMENT OF THE DEPARTMENT OF GENERAL SERVICES

Intervenor District of Columbia Department of General Services (“DGS”) submits this Supplemental Statement to address the threshold and interpretive issues that remain central to this appeal. At bottom, Appellant asks the Board to conclude that freestanding athletic-field light poles are “structures” under the Zoning Regulations and therefore subject to dimensional zoning standards, including setback requirements. That conclusion is not compelled by the text and, when the Regulations are read as a whole, it is neither the most reasonable nor the most administrable interpretation.

I. INTRODUCTION

Appellant’s position has a certain surface appeal because it reduces the issue to a simple formulation: an 80-foot light pole is constructed, fixed in place, and bears some resemblance to an item listed in the definition of “structure,” therefore an 80-foot light pole must be a structure. But that formulation oversimplifies the interpretive question before the Board. Appellant’s reading depends on isolating the broadest language in the definition, without accounting for how the term operates throughout the Zoning Regulations or the practical consequences of applying dimensional zoning controls to lighting infrastructure across the District.

Context matters because “structure” is a defined term used throughout the Zoning Regulations, and the Regulations themselves do not use that term as rigidly as Appellant’s argument assumes. The definition of “Public Library” is a simple example. It expressly refers to libraries located in “portable structures.” But under Appellant’s reading, that phrase is almost self-contradictory: Appellant treats the general definition of “structure” as limited to objects whose use

requires permanent location on the ground. A “portable structure” therefore makes sense only if the term “structure” is read in context, rather than applied mechanically from the broadest words of the general definition. A decision that light poles fall within that definition would not be limited to the four poles at Duke Ellington Track and Field or to the setback provision cited by Appellant. It would necessarily affect the meaning of the term wherever it appears in the Regulations. The Board therefore cannot interpret “structure” in isolation or apply the broadest words of the definition without also considering how that interpretation would operate across the zoning code.

Appellant’s reading would require the Board to give the term “structure” one rigid meaning and then apply that meaning wherever the term appears in the Zoning Regulations. That is not a narrow ruling about four light poles at one public recreation facility. It is a code-wide interpretive decision with consequences for height, yards, setbacks, lot occupancy, nonconformities, and any other provision that depends on whether something is a “structure.” If that is the rule the District is going to adopt, it should come from the Zoning Commission through a text amendment. It should not be imposed through this site-specific permit appeal, particularly where Appellant has not established standing and the Zoning Administrator’s interpretation is reasonable, longstanding, and workable.

II. ARGUMENT

(i) Appellant Has Not Demonstrated Standing

Before reaching the merits, the Board should determine whether Appellant has established standing to bring this appeal. The issue was briefed, but it was not addressed during the Board’s prior deliberations. The Board therefore has not yet determined whether BCA has carried its threshold burden to show that it is properly before the Board. Standing remains a threshold issue, and it is particularly important here because Appellant asks the Board to issue a broad interpretation of a defined zoning term with consequences well beyond this permit.

Appellant's standing argument rests principally on the Board's order in Dupont Circle Citizens' Association, BZA Appeal No. 19374 ("Dupont Circle"). But Dupont Circle does not establish the broad rule Appellant needs here. The Board's standing analysis in Dupont Circle relied on *Goto v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 917 (D.C. 1980), but *Goto* did not decide whether a citizens association, standing alone, qualifies as a "person aggrieved." Appellant acknowledged as much in its Reply. *See* Appellant's Reply, Ex. 20 at 7. In *Goto*, the Court of Appeals expressly declined to decide whether the Citizens Association of Georgetown independently had standing because an adjoining property owner had intervened and independently satisfied the jurisdictional requirement. *Goto* therefore does not support automatic or generalized associational standing in zoning appeals.

To the extent Dupont Circle is read to suggest otherwise, it should not be extended beyond its facts. In that case, the record identified Brian Gelfand as both a member of the Dupont Circle Citizens' Association and an adjacent neighbor of the subject property. Mr. Gelfand personally raised the zoning issue with DCRA, received the Zoning Administrator's determination letter, brought the permit to the association's attention, and testified on behalf of the appellant at the public hearing. The Board therefore had a concrete record tying the association's appeal to a specific, proximate individual who had personally participated in the zoning dispute and whose interests the association was pursuing.

That record is missing here. Appellant identifies several BCA members with properties across from or near Ellington Field, but those individuals appear only through counsel's representation in briefing and oral argument. None submitted testimony, an affidavit, a letter, or any other statement saying that they are aggrieved by the Zoning Administrator's determination. None appeared before the Board. None stated that they support this appeal. None stated that they authorized BCA to pursue this appeal on their behalf. The only BCA member who submitted an

individual statement in support of the appeal is Gail Juppenlatz, who identifies herself as a BCA member and board member living at 3542 Whitehaven Parkway NW. Ex. 20. The question for the Board, then, is whether counsel's mere identification of names and addresses of proximate members, combined with a letter from a member who is not alleged to live adjacent to or across from the field, and in fact lives over 1000 ft away, is sufficient to establish that BCA is acting on behalf of a "person aggrieved."

The record also cuts against any assumption that BCA is speaking for an aggrieved nearby member. Two BCA members who live near the field submitted a letter opposing the appeal and supporting the lights. *See* Ltr. in Opp. from Allen Gordus, Ex. 11 and *See* Ltr. in Opp. from Ebtehaj Kalantar, Ex. 37. In addition, ANC 2E Commissioner Kishan Putta testified that he received no complaints when the lights were tested. Hearing Tr. at 100:11-101:19. DGS submits that, under the standard Appellant invokes from Dupont Circle, this record is not enough. Dupont Circle involved a named adjacent member who personally participated in the zoning dispute, received the ZA determination, brought the matter to the association, and testified in support of the appeal. Here, the proximate members Appellant relies on never appeared, never submitted evidence, and never claimed aggrievement, while the only individual supporting letter came from a member located substantially farther from the field. The Board should not extend Dupont Circle to find standing here on that record.

(ii) The Zoning Administrator's Interpretation Should Be Affirmed

If the Board reaches the merits, it should affirm the Zoning Administrator's determination as briefed in prior filings. Under D.C. Code § 6-641.07(g)(4), the Board may "reverse or affirm, wholly or partly," or "modify" the decision appealed from, and "to that end *shall have all the powers* of the officer or body from whom the appeal is taken." (emphasis added). But that authority cuts both ways. If the Board stands in the Zoning Administrator's shoes, then it should exercise

the Zoning Administrator's powers through the same interpretive framework the Zoning Administrator is required to apply.

That means the Board should not decide this appeal through a narrower lens than the Zoning Administrator herself would use. Chair Blake correctly recognized that interpretation requires more than isolated word reading; it requires "reading the words as written *and consulting the regulatory context that surrounds them.*" Mar. 11, 2026 Tr. at 25:18-20 (emphasis added). The Zoning Administrator does not administer the Zoning Regulations by isolating the broadest language in a single definition and ending the inquiry. She must read the Regulations as a coherent code, consider how defined terms operate across related provisions, account for longstanding administrative practice, and avoid interpretations that create unworkable or unintended consequences. The Board's "all powers" authority therefore supports a full regulatory analysis.

To that end, "structure" is not an isolated word appearing in a single setback provision. It is a defined term used throughout the Zoning Regulations—the Board should not determine its meaning for this appeal by looking only at the breadth of the definition while disregarding how that definition operates across the code. Thus, the question is not whether the definition of "structure" can be read broadly, as it almost certainly can. It is whether that definition, read in context and applied consistently throughout the Regulations, requires that light poles be treated as zoning structures subject to one-to-one setbacks and other dimensional controls. It does not. Applying the definition that mechanically would produce an unworkable an outcome the Regulations do not compel and the Board should not adopt.

The Board acknowledged that the District is "a dense urban environment where space is limited," that athletic-field light poles are "somewhat unique installations," and that their operation is "largely regulated by other District agencies." The Board also recognized the direct consequence of Appellant's reading: because "many athletic fields in the District abut public streets," it is "hard"

to see how athletic-field lights would satisfy a one-to-one setback requirement in that environment. Mar. 11, 2026 Tr. at 25:22 - 26:6. DGS respectfully submits those reasons should not be set aside.

Appellant's plain-language argument is appealing only because it truncates the inquiry. But case law requires that the Board look further and dictates that the Board not stop at the plain meaning of the words of the definition. The Board should not treat the broadest words in the definition of "structure" as though they end the analysis, because District of Columbia law does not equate superficial textual breadth with unambiguous regulatory meaning. Put simply, plain language alone does not resolve what the regulation actually means here. Even words with "superficial clarity" may become ambiguous after "in-depth consideration of alternative constructions." *Peoples Drug Stores, Inc. v. District of Columbia*, 470 A.2d 751, 753 (D.C. 1983). Courts therefore may not "make a fetish out of plain meaning" or "make a fortress out of the dictionary." *J. Parreco & Son v. D.C. Rental Hous. Comm'n*, 567 A.2d 43, 46 (D.C. 1989). Nor may they treat "[l]iteral words" as "the sole index to legislative intent"; the text must be read "in light of the statute as a whole and given a sensible construction not plainly at variance with the policy of the legislation." *Columbia Plaza Tenants' Ass'n v. Columbia Plaza Ltd. P'ship*, 869 A.2d 329, 332 (D.C. 2005). That is why plainness or ambiguity must be determined by considering "the language itself, the specific context, and the broader statutory scheme," with the statute interpreted as a "symmetrical and coherent regulatory scheme." *O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd.*, 46 A.3d 378, 383 (D.C. 2012). Those principles defeat Appellant's approach here: the Board cannot declare the definition unambiguous by excluding from the analysis the very regulatory context that D.C. law requires it to consider. The Board cannot stop at the plain reading of the words, especially when the record makes clear that an alternative construction exists and the prior Board's and deliberation acknowledged unworkable results of such a narrow reading.

French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023 (D.C. 1995), is directly on point. In *French*, the regulation applied to “existing residential buildings,” and the challengers advanced the more literal reading: a building should qualify only if it was both residentially zoned and actually being used as a residence. The Board did not adopt that plain-language reading. It looked beyond the plain reading and evaluated the regulation more functionally, concluding that the phrase required residential zoning, but not actual residential occupancy. The Court of Appeals affirmed, holding that because “the actual language of the regulation could reasonably be read either as the Board reads it or as petitioners read it,” the Board’s interpretation controlled. *Id* at 1033.

The same reasoning applies here, thus, the Board should follow a similar analysis and not stop at the plain text. The Zoning Administrator’s determination is not a departure from the text; it is an application of the interpretive method the Regulations require. The definition of “structure” cannot be read only for its broadest possible meaning and then applied mechanically wherever the term appears. Because “structure” is a code-wide defined term, the Zoning Administrator must consider how that term operates in the context of the entire code, including whether Appellant’s reading would trigger dimensional controls in ways the Regulations do not clearly require. The Board’s prior deliberations identified that problem directly: applying a one-to-one setback requirement to athletic-field lighting in the District’s dense urban environment creates serious practical and regulatory concerns. Under *French*, the existence of a possible literal reading does not end the inquiry where the Regulations reasonably support a more functional reading. The Zoning Administrator’s interpretation reasonably fits the text, context, and operation of the Regulations, and the Board should affirm it.

(iii) The Regulations Expressly Address Light Poles When the Zoning Commission Intends to Regulate Them

Appellant's counsel argued that the definition of "structure" was drafted broadly because the drafters "couldn't conceive of every possible thing," and acknowledged that he did not know how common 80- or 90-foot light poles were in the 1950s. Feb. 25, 2026 Tr. at 30:16-31:6. But tall field-lighting poles were not some unimaginable later invention. Historic photographs of Griffith Stadium in LeDroit Park, show large athletic-field lighting installations in residential neighborhoods well before the implementation of the Zoning Regulations in 1958.¹ Given the use of athletic-field lighting prior to drafting of the Zoning Regulations, the omission of the word "light pole" or intentional use of the narrow word "flag pole" supports the Zoning Administrator's interpretation. More importantly, the Zoning Regulations themselves show that when the Zoning Commission intended to address light poles within a zoning framework, it knew how to do so expressly.

The Zoning Regulations treatment of "Stealth Structures" makes that point directly. The definition provides that Stealth Structures may include "flag poles, *light poles*, fence supports, steeples, cupolas, artificial trees, and other appropriate architectural elements" that house an antenna Subtitle B §100.2 (emphasis added). The related regulations then create a tailored framework for those pole-type installations. A ground-mounted stealth structure may be permitted as a matter of right up to 80 feet in residential zones, provided it satisfies specific conditions, including, among other things, that the proposed stealth structure is properly screened not out of scale with the property "taking into account the size, setbacks, topography, and underlying use of the property." Subtitle C §§ 1306.1(a) - (f).

¹ See **Griffith Stadium**, *Ballparks of Baseball*, <https://www.ballparksofbaseball.com/ballparks/griffith-stadium/> (last visited June 16, 2026).

Thus, under the stealth-structure provisions, a light pole used to screen antenna equipment may have a matter-of-right path to 80 feet in a residential zone without satisfying a one-to-one setback requirement. By contrast, under Appellant's interpretation, the same 80-foot light pole without antenna equipment would be treated as a "structure" subject to Subtitle D § 203.5 and therefore could not be approved unless it were set back 80 feet from all lot lines or obtained variance relief. Appellant's reading would treat a light pole more favorably when it houses telecommunications equipment than when it provides merely lighting for a public athletic field. That cannot be what the Regulations mean. The more coherent reading is the Zoning Administrator's: light poles are not automatically subject to dimensional zoning controls under the general definition of "structure," and when the Zoning Commission intends to regulate light poles within a particular zoning framework, it does so expressly.

III. CONCLUSION

For these reasons, the Board should dismiss the appeal for lack of standing or, if it reaches the merits, affirm the Zoning Administrator's determination. DGS does not minimize the importance of community concerns about public facilities, field lighting, or the use of neighborhood recreation space. But this appeal is not a vehicle for creating a citywide rule about light poles through a site-specific permit challenge. Nor is it the grammatical exercise Appellant makes it out to be. The question is not whether an 80-foot light pole can be described, in ordinary language, as something constructed and fixed in place. The question is one of zoning interpretation: whether the defined term "structure," when read in context and applied throughout the Zoning Regulations, clearly requires ordinary athletic-field light poles to be treated as zoning structures subject to one-to-one setbacks and other dimensional controls. Appellant's argument stops at the broadest possible reading of isolated words; the Zoning Administrator's determination reflects the harder and more faithful task of administering the Regulations as a coherent code.

That interpretation accounts for the way the term “structure” operates across the Regulations, the practical consequences of Appellant’s reading, the Board’s own recognition that athletic-field lighting presents unique issues in a dense urban environment, and the fact that the Zoning Commission knows how to address light poles expressly when it intends to regulate them in a particular zoning framework. The Regulations do not clearly compel Appellant’s overly mechanical reading, and the Board should not impose that reading here. The Zoning Administrator’s interpretation is reasonable, workable, and consistent with the Regulations as a whole. It should be affirmed.