

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**
441 4th Street, N.W.
Washington, D.C. 20001

Appeal by Burleith Citizens Association

BZA Appeal No. 21314

**D.C. DEPARTMENT OF BUILDINGS' RESPONSE TO INTERVENOR'S
SUPPLEMENTAL STATEMENT**

District of Columbia Department of Buildings (“DOB”) submits this brief response to the Supplemental Statement of Intervenor the Department of General Services (“DGS” or “Intervenor”) in this appeal by the Burleith Citizens Association (“BCA” or “Appellant”).

This appeal challenges the Zoning Administrator’s zoning approval of Building Permit B2308807 (“Building Permit”) and her subsequent clarification of the sensible and longstanding practice of excluding light poles (and other objects) from the definition of structure, and thus from zoning review.

Appellant asserts that the definition of “structure” plainly and clearly includes light poles because in its interpretation, it applies to anything constructed having a permanent location on the ground. *See* Appellant’s Statement at pp. 9-12. However, “[t]his is a very complicated case with a lot of legal particulars that need to be analyzed.” July 22, 2026, Meeting Tr. at 12:10-12. At the forefront is the question of ambiguity. At the March 11, 2026, Public Meeting, former Vice-Chairperson Carl Blake, former NCPC Designee Brittney Drakeford, and Commissioner Wright began deliberations, but a vote was not taken with NCPC Member Drakeford noting that “the fact that there is some ambiguity today [...] indicates that perhaps as Commissioner Wright mentioned that there is a need for additional clarity through a text amendment or update to the zoning code” BZA Case No. 21314, 03/11/2026 Public Meeting Tr. at p. 31:12.

DOB agrees with, adopts, and incorporates DGS’ characterization of the legal question of ambiguity presented in its Supplemental Statement. In addition to the binding precedents cited by DGS, the District of Columbia Court of Appeals has recently re-articulated the appropriate standard of construction that the Board should apply in evaluating the question before it. In *Booz Allen Hamilton Inc. v. Off. of Tax & Revenue*, 308 A.3d 1205 (D.C. 2024), the Court of Appeals discusses the proper approach to interpretation as follows:

When interpreting statutes, “[w]e first look to see whether the statutory language at issue is plain and admits of no more than one meaning.” *In re Macklin*, 286 A.3d 547, 553 (D.C. 2022) (internal quotation marks omitted). “The meaning—or ambiguity—of certain words or phrases may only become evident when placed in context. Therefore, we do not read statutory words in isolation; the language of surrounding and related paragraphs may be instrumental to understanding them.” *Id.* (internal quotation marks omitted). “We consider not only the bare meaning of the word but also its placement and purpose in the statutory scheme. Statutory interpretation is a holistic endeavor.” *Id.* (internal quotation marks omitted).

Generally, “[w]e will give effect to the plain meaning of a statute when the language is unambiguous and does not produce an absurd result.” *In re Macklin*, 286 A.3d at 553 (internal quotation marks omitted). The plain meaning of a statute may not be controlling, however, when there is a “clearly expressed legislative intention to the contrary.” *Hensley v. D.C. Dep’t of Emp. Servs.*, 283 A.3d 123, 127 (D.C. 2022) (internal quotation marks omitted).

“We consider statutory context and structure, evident legislative purpose, and the potential consequences of adopting a given interpretation.” *In re Macklin*, 286 A.3d at 553 (brackets and internal quotation marks omitted). “We may also look to the legislative history to ensure that our interpretation is consistent with legislative intent.” *Id.* (internal quotation marks omitted).

Id. at 1209-10.

If this required process sounds familiar, it is because that is precisely what the Zoning Administrator did in reviewing and ratifying the longstanding interpretation. As Zoning Administrator Beeton testified at the February 25, 2026, Public Hearing, her determination process closely tracks the legal standard. February 25, 2026, Public Hrg. Tr. at 53:8-60:13.

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The Board of Zoning Adjustment may affirm the interpretation of the Zoning Administrator when it is reasonable, supported by substantial evidence, and comports with the Zoning Regulations as a whole. This matter has experienced delays due to the unforeseen loss of quorum. Now that quorum has been restored, two or more Board Members will be asked to decide this matter without the benefit of questioning the parties and the Zoning Administrator about the necessity and underpinnings of this longstanding interpretation. Because this appeal will have city-wide impacts beyond the property at issue, DOB would like to ensure the Board has the opportunity to ask the Zoning Administrator any additional questions they may have before deciding this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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