

Re: Zoning - Building Permit # B2308807

DC Department of Buildings <dob@dc.gov>

Fri, Mar 7, 2025 at 11:34 AM

Reply-To: dob@dc.gov

To: michael.mcduffie@gmail.com

Good morning Mr. McDuffie:

Thank you for contacting the Department of Buildings regarding your concern that the light poles to be installed at Duke Ellington Park violate 11 DCMR D-203.5 of the zoning regulations which requires:

203.5

A **building or other structure** may be erected to a height not exceeding ninety feet (90 ft.) with no limit on number of stories; provided that the **building or structure** shall be removed from all **lot lines** of its **lot** a distance equal to the height of the **building or structure** above the adjacent natural or **finished grade**, whichever is the lower in elevation.

Pursuant to 11 DCMR B-100 the definition of structure is:

Structure: Anything constructed, including a **building**, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground and including, among other things, radio or television towers, reviewing stands, platforms, flag poles, tanks, bins, gas holders, chimneys, bridges, and **retaining walls**. The term structure shall not include mechanical equipment, but shall include the supports for mechanical equipment. Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

Because the definition of "structure" does not include light poles among the items specifically listed, the Office of Zoning Administration does not consider the proposed light poles to be structures and therefore are not subject to the setback requirements of D-203.5. The OZA confirmed this has been the long-standing interpretation of the office with regard to light poles throughout the District.

You mentioned a BZA case #19293 for Gonzaga High School where the applicant sought relief for the proposed light poles at the field. In the summary Order approving the light poles and the expansion of the number of faculty staff and staff for the private school, the Order clearly states "The zoning relief requested in this case was self-certified [meaning that the applicant did not seek a determination by the Zoning Administrator regarding whether the relief was required], pursuant to 11 DCMR Section 3113.2 (Exhibit 3). In granting the certified relief, **the Board of Zoning Adjustment ("Board" or "BZA") made no finding that relief is either necessary or sufficient.** [emphasis added]" If the applicant or BZA had requested a determination by the ZA, they would have been advised that OZA did not consider the light poles to be "structures" subject to zoning regulation. Additionally, if that were not the case, there would have been many more applications to the BZA seeking relief for light poles in athletic fields and recreation centers across the District.

Based on the foregoing, OZA has determined that the issuance of B2308807 for the improvements to the Duke Ellington Park is consistent with the applicable zoning regulations.

If you believe otherwise, you may appeal the decision to issue the building permit to the BZA pursuant to 11 DCMR Y-302.2, which must be filed with the BZA not later than 60 days after the person who is appealing the administrative decision had notice or knowledge of the decision, as set forth below:

302.2

A zoning appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.

If you have any questions, please let me know.

Best regards,
Kathleen



On Thu, Mar 6, 2025 at 4:54 PM <michael.mcduffle@gmail.com> wrote:

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Ms. Walker:

I write to ask for an update regarding the zoning violation involved with the above-referenced permit. For your reference, the permittee's contractor has locked the facility to the public, started construction by erecting semi-permanent fencing on the property, and posted the permit on the property. Thank you.

Regards,
Michael McDuffle

On Tue, Mar 4, 2025 at 1:24 PM <dob@dc.gov> wrote:

Good morning, Mr. McDuffle,

Thank you for taking the time to speak with me this morning. As I explained during our conversation, the term lengthy is not intended to describe how long it will take for OZA to review your complaint to determine if a Zoning violation has occurred but rather to detail how long it may take to bring the property into compliance with the Zoning Regulations. OZA is collaborating with DPR and DGS to alert them of the zoning violation and provide a compliance patch to ensure the project complies with 11 DCMR Subtitle D § 203.5.

Thanks again for contacting DOB and bringing this matter to our attention. It was my pleasure to assist you, and I hope the information I provided is helpful. Please let me know if you have any additional questions or concerns.

Regards,

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