

Testimony for Case Number 08-06A

Melissa & Michael Henry

1378 Taylor St NW

melissa_demple@yahoo.com

mikehenry504@gmail.com

We are homeowners living in the current R4 zone and we recently came across the proposed changes to the DC zoning and planning laws related to accessory apartments. As the DC Zoning Board is giving the community the opportunity to submit comments and proposed solutions, we are submitting the following to request that certain changes be made to **Subtitle D, Chapter 16, Section 1606** of the proposed code to allow homeowners the latitude to improve their property and provide for housing alternatives to high-rise apartment buildings and basement apartments in homes in the R Zones of the city.

OUR COMMENTS

If Subtitle D, Chapter 16, section 1606 is allowed to be placed into law, owner-occupied homeowners will be severely restricted from using their property to provide additional options for renters which would generally be their right as property owners under Subtitle A, Chapter 8, Section 801.7 which states, "When permitted by the regulations of the relevant land use subtitle and meeting all the requirements of this Chapter, an accessory building may be used for an accessory apartment." In addition, language in Subtitle D, Chapter 17, Section 1701.3 allows for accessory apartments to be built with special exception only which places undue hardship upon the homeowner to go through a variance process to obtain the necessary permitting, the approval for which is substantially outside their control and adds significantly to the cost of obtaining a permit to build.

The reason given for these restrictions set forth in Subtitle D, Chapter 16 is that "any modification(s) approved shall not conflict with the intent of this section to maintain a single household residential appearance and character in the `R zones." An apartment in an accessory building located in the rear of their home does not, in fact, detract from a single household residential appearance or character any more than a basement apartment, ubiquitous in these zones, would do. In fact, an accessory apartment located in the rear of a home would be less likely to detract from that appearance as it would not be generally visible from the street whereas basement apartments have stairways and entrances visible to the public street.

Even further, the current state of development in the R zone neighborhoods is a significant increase in the construction of condominium buildings taking over entire lots of what were once single family row houses. The following images are an example of a three story condominium structure recently built right around the corner from our house which took over the entire lot of what was once a stately single family home:



We realize it might be necessary to build more condo and apartment buildings in order to handle the increase in population density in the R zones of the city, however, this practice does not result in a "single household residential appearance and character" as the proposed language suggests.

OUR PROPOSED SOLUTION

We propose the following changes to the language in Subtitle D, Chapter 16 Section 1606

- (1) The accessory building was in existence on January 1, 2013;

Proposed change: Allow owner-occupied homeowners in the R zones to build no more than one accessory apartment in the rear of their home by right, subject to the provisions in Subtitle D Chapter 17, Section 1701.3 (no adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property) NOT by special exception. Special exception approval would place an undue burden upon the homeowner to submit additional documentation to obtain a special exception permit and adds substantially to the cost of the permit.

- (2) No expansion or addition may be made to the accessory building to accommodate an apartment except by special exception;

Proposed change: Strike this restriction for owner-occupied homeowners in the R zones.

- (3) There shall be permanent access to the accessory building dwelling from a dedicated and improved right of way;

We have no proposed changes to this item.

- (4) The dwelling use of the accessory building shall be coterminous with the permanent access; and

We have no proposed changes to this item.

- (5) The permanent access shall be provided by either or both of the following:

- (A) An easement for a permanent passage, open to the sky, no narrower than ten feet (10 ft.) in width, and extending from the accessory building to a public street through a side setback recorded in the land records of the District of Columbia; or

We have no proposed changes to this item.

- (B) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street. (FYI...none of the alleyways in our area are 24 ft wide)

To our knowledge, none of the alleyways in the R4 zone have been widened to 24 ft so this section would automatically preclude an accessory apartment to be built even if other parts of the code would allow a homeowner to do so. Our proposed change is to strike the 24 ft wide

restriction for owner-occupied homeowners as we have no control over the width of a public alleyway.

- (6) An accessory building that houses an apartment shall not be used simultaneously for any accessory use other than as a private vehicle garage for a dwelling unit on the lot;

Proposed change: This section would not allow for storage space which might be necessary for the homeowner or the renter. Propose that this section be modified to allow for owner-occupied homeowners to use an accessory building for uses such as storage or an artist studio; uses which would not detract from the enjoyment of the property by the homeowner or the renter.

- (7) An accessory building that houses an apartment shall not have a roof deck or balcony;

We have no proposed changes to this item.

- (8) An accessory building constructed as a by right accessory building after January 1, 2013 shall not be used as, or converted to, an accessory apartment except by special exception for a period of five years after the approval of the building permit for the accessory building; and

This appears, on its face, to have no purpose other than to unnecessarily further restrict a homeowners rights. Proposed change: Strike this section for owner-occupied homeowners.

- (9) Any proposed expansion of an accessory building for residential purposes shall be permitted only by special exception approval pursuant to Y Chapter 8, and shall be evaluated against the applicable standards of D § 1701.3. The Board may modify or waive not more than two (2) of the requirements (g)specified in paragraphs (a) through (f) of this subsection; subject to the following limitations:

- (1) The owner-occupancy requirement of paragraph (b) shall not be waived for all R zones; and
(2) Any modification(s) approved shall not conflict with the intent of this section to maintain a single household residential appearance and character in the `R zones."

Proposed change: Allow owner-occupied homeowners in the R zones to build no more than one accessory apartment in the rear of their home by right, subject to the provisions in Subtitle D Chapter 17, Section 1701.3 (no adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property) NOT by special exception. Special exception approval would place an undue burden upon the homeowner to submit additional documentation to obtain a special exception permit and adds substantially to the cost of the permit.

CONCLUSION

We believe that the changes we have proposed above will provide a good balance between allowing owner-occupied homeowners to use their property by right to provide for additional housing options for renters provided they do not affect the use or enjoyment of neighbors and maintaining the single household residential appearance and character in the R zones of the city.