

SUPPLEMENTAL MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Brandice Elliott, AICP, Project Manager
JLS
Jennifer Steingasser, AICP, Deputy Director, Development Review & Historic Preservation

DATE: May 4, 2020

SUBJECT: ZC Case 19-21 – Second Supplemental Report for a Proposed Text Amendment to the Zoning Regulations: Subtitles D, E and U – Roof Top or Upper Floor Elements

I. ZONING COMMISSION PUBLIC MEETING COMMENTS

At its public meeting on April 27, 2020, the Zoning Commission discussed the proposed modifications to the text amendment regarding solar energy system protections. While the Commission was generally satisfied with responses provided regarding public comments and changes made to the text as a result of those comments, it continued to be concerned regarding the special exception criteria that would allow relief from the provisions. The Office of Planning (OP) had proposed the following text to Subtitle D §§ 208.2 and 206.4:

For good cause shown, relief from the requirements of Subtitle D § 208.1 may be approved by the Board of Zoning Adjustment as a special exception upon demonstrating that the shading impact to abutting solar energy systems has been mitigated to the extent possible.

In response, the Commission expressed that the proposed language was problematic because it gave the Board of Zoning Adjustment (BZA) too much flexibility to determine whether a special exception should be granted to an applicant proposing to obstruct an existing solar energy system.

Since the public meeting, OP has further researched solar access provisions and has worked with OAG to draft new text that would provide more guidance to the BZA regarding these types of applications. To date, there have not been any special exception requests of this nature before the BZA, as the Zoning Regulations currently allow.

OP proposes the following special exception criteria:

Relief from the requirements of Subtitle D § 208.1 may be approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and the following:

(a) The application demonstrates the applicant has made its best efforts to minimize and mitigate the potential shading impact to solar energy systems on abutting properties to the extent reasonably practical, including possible design alternatives to the application's proposed construction and potential solar access easements;

(b) The application shall include illustrations of the shading impact on solar energy systems on abutting properties (i) as proposed by the application, (ii) as allowed as a matter of right, and (iii) of possible design alternatives considered by the applicant; and

(c) The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate shading impacts identified in the consideration of the application.

The proposed regulations would establish application submission requirements, providing the BZA with sufficient information to review in order to make a determination. In addition, the BZA would have the authority to limit the impact to solar energy systems, as provided in proposed (c).

Since the public hearing, OP has continued to work with OAG to refine the text, and requests to continue working with OAG to address any further revisions.

JS/be