

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 24-20
Office of Planning
(Text Amendment to Subtitles B, D, E, F, & I)
(Clarifications to Rear Yard Measurements and Accessory Buildings
in the R, RF & RA Zones)

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend Subtitles B, D, E, F, and I of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified), with the proposed text at the end of this notice.

SETDOWN

On December 9, 2024, the Office of Planning (OP) filed a petition (OP Setdown Report¹) to the Commission proposing text amendments to clarify several inconsistencies regarding rear yards that have been identified in the administration from the Zoning Regulations of 1958 (ZR58) to the Zoning Regulations of 2016 (ZR16) and contribute to challenges when interpreting and applying the ZR16 regulations to projects (Exhibit [Ex.] 2). The OP Setdown Report stated that OP and the Office of the Zoning Administrator at the Department of Buildings have worked together to clarify and add consistency to the definitions, rules of measurement, and accessory building rear yard section of ZR16. The proposed amendments would:

- Clarify rear yards within the definitions and rules of measurement; would add consistent clarity across the residential, residential flat, and residential apartment zoning districts, and would make minor changes to code references in the Downtown zoning district;
- Revert to the previously existing regulation under ZR58 that allowed accessory buildings to occupy no more than thirty percent (30%) of the rear yard; and
- Clarify that special exception relief for encroachments should be taken from the accessory building rear yard section and not the rear yard section (as only accessory buildings exceeding thirty percent (30%) of the required rear yard would require special exception relief).

OP stated that the proposed amendments would reduce special exception relief cases before the Board of Zoning Adjustment (BZA) and bring ZR16 in line with current interpretations.

To effectuate these changes, OP proposed amendments to the following Subtitles:

- Subtitle B, Chapter 1 Definitions; Chapter 3 General Rules of Measurement: § 317 Rear Yards, § 318 Rules of Measurement for Rear Yards;
- Subtitle D, Chapter 50 Accessory Building Regulations for Residential House (R) Zones; § 5003 Maximum Building Area, § 5004 Rear Yard;

¹ The OP Setdown Report also served as the prehearing report required by Subtitle Z § 501.

- Subtitle E, Chapter 50 Accessory Building Regulations for Residential Flat (RF) Zones; § 5003 Building Area, § 5004 Rear Yard;
- Subtitle F, Chapter 50 Accessory Building Regulations for Residential Apartment (RA) Zones; § 5003 Rear Yard; and
- Subtitle I, Chapter 2 General Development Standards for Downtown (D) Zones; § 205 Rear Yard to update applicable reference numbers.

At its December 19, 2024 public meeting, the Commission voted to grant OP's request to set down the petition for a public hearing.

OP Reports

In addition to its Setdown Report, OP submitted a Supplemental Report and a Hearing Report (hereinafter, the OP Reports), which are summarized below (Ex. 2, 3, 8):

Comprehensive Plan

The OP Reports concluded that, on balance, the proposal would not be inconsistent with the Comprehensive Plan, including when viewed through a racial equity lens, and would further policy objectives of the Land Use, Housing, and Implementation Elements. OP stated that the proposal would meet policy objectives of these Comprehensive Plan Elements because allowing accessory structures to occupy thirty percent (30%) of rear yard area would provide additional flexibility and efficient land use in lower density zones (R, RF, RA) and remove development barriers by allowing more accessory buildings as a matter-of-right, reducing special exception applications before the BZA; and the proposal would update the District's land use controls to address issues and streamline permitting procedures in administering ZR16.

Racial Equity

Community Outreach and Engagement

OP stated that outreach was limited in this case because the proposal consists of clarifications to the regulations related to the ZR58 to ZR16 administration that were not fully captured. OP stated that it worked closely with the Department of Buildings (DOB) to draft the proposed amendments to ensure consistency of administration. OP also stated that it monitored BZA cases and comments involving rear yard relief, to ensure that the proposed language would provide clarity on the required rear yard relief before the BZA. Finally, OP noted its outreach with the American Institute of Architects (AIA) DC Chapter and various land use attorneys regarding the proposal and supportive feedback.

Disaggregated Race and Ethnicity Data

OP stated that the racial equity impacts of the proposal would be neutral. OP noted that because the proposal will have a citywide impact and will not directly impact any specific planning area, the provision of disaggregated race and ethnicity data regarding population, income, and other data metrics is not pertinent as the proposal only seeks to clarify existing regulations to facilitate consistency of administration.

NOTICE

Pursuant to Subtitle Z § 502, the Office of Zoning (OZ) sent notice of the March 31, 2025 public hearing, on February 5, 2025 (Ex. 7) and published notice of the public hearing in the February 14, 2025 *District of Columbia Register* (72 DCR 001500 *et seq.*) as well as on the calendar on OZ's website (Ex. 5, 6).

COMMENTS

Prior to the March 31, 2025 public hearing, the Committee of 100 filed comments to the record stating that OP's explanation of the proposed amendments does not provide adequate detail (Ex. 9). The Committee of 100 stated that OP proposes changes to the definitions for measuring rear yards that would delete the description of openness of the area, and how to measure from the rear wall of the main structure to the rear lot line. The Committee of 100 requested that OP provide detailed illustrations to explain what the proposal will accomplish and answer the following questions:

- Will the proposal shrink or expand required minimum rear yard depth;
- Will the proposal impact maximum allowable lot occupancy; and
- How will the proposal impact approval of accessory dwelling units.

PUBLIC HEARING

At the March 31, 2025 public hearing, OP presented the proposal, including illustrations of rear yard and accessory building examples, and reiterated the conclusions stated in the OP Reports. OP responded to the questions raised by the Committee of 100 in its presentation, noting that the proposal will not shrink or expand the required minimum rear yard depth; the proposal will not impact maximum allowable lot occupancy; and the proposal will have a neutral impact on the approval of accessory dwelling units.

No ANC's or government agencies, other than OP, testified at the public hearing.

The Commission questioned OP about the proposal. The Commission stated that the proposal will provide clarity and additional flexibility for accessory building placement and reduce special exception cases before the BZA. The Commission also noted the need for a future text amendment to provide additional clarifications pertaining to accessory buildings.

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations of the OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 504.6 (*Metropole Condo. Ass'n v. D.C. Bd. Of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).

The Commission finds persuasive and concurs with OP's analyses in the OP Reports and its recommendation that the Commission take proposed action to adopt the proposed amendments. The Commission acknowledges the Committee of 100 comments and finds that OP responded to the comments and questions raised in its presentation at the public hearing.

“Great Weight” to the Written Report of the ANC

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.)) and Subtitle Z § 505.1. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)). The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted)).

Since no ANC filed a response to the proposal as advertised in the public hearing notice, there is nothing to which the Commission can give great weight.

PROPOSED ACTION

At the conclusion of the March 31, 2025 public hearing, the Zoning Commission voted to take **PROPOSED ACTION** to:

- Adopt the Petition as proposed; and
- Authorize the publication of a Notice of Proposed Rulemaking (NOPR).

VOTE (March 31, 2025): 5-0-0

(Joseph S. Imamura, Anthony J. Hood, Robert E. Miller, Tammy Stidham, and Gwen Wright to **APPROVE**)

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice of proposed rulemaking in the *District of Columbia Register*.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking may be obtained at cost by writing to the above address.

The complete record in the case can be viewed online at the Office of Zoning’s Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows) text to be deleted is marked in **~~bold and strikethrough~~** text; new text is shown in **bold and underline** text).

I. Amendments to Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES

Section 100, DEFINITIONS, of Chapter 1, DEFINITIONS is proposed to be amended to read as follows:

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...

Yard, Rear: A yard between the rear line of a building or other structure and the rear lot line, except as provided elsewhere in this title. The rear yard shall be for the full width of the lot and shall be unoccupied, except as specifically authorized in this title.

~~Yard, rear, depth of: The mean horizontal distance between the rear line of a building and the rear lot line, except as provided elsewhere in this title.~~

Yard, Side: A yard between any portion of a building or other structure and the adjacent side lot line, extending for the full depth of the building or structure.

...

Section 317, REAR YARDS, of Chapter 3, GENERAL RULES OF MEASUREMENT, is proposed to be amended to read as follows:

317 REAR YARDS

317.1 Rear yards regulate the distance between a building and a rear lot line.

317.2 **Required rear yards regulate a minimum distance within the rear yard.**

~~317.23~~ A lot may have more than one (1) rear lot line.

~~317.34~~ No rear yard is required for through lots.

Section 318, RULES OF MEASUREMENT FOR REAR YARDS, of Chapter 3, GENERAL RULES OF MEASUREMENT, is proposed to be amended to read as follows:

318 RULES OF MEASUREMENT FOR REAR YARDS

~~318.1 In the case of a lot that is triangular or irregularly shaped, the furthestmost point or line from the street lot line shall be deemed the point or line from which the required rear yard shall be measured.~~

318.21 The depth of a **required** rear yard shall be measured as the mean horizontal distance between the rear line of a building and the rear lot line, except as provided

elsewhere in this title. **For purposes of measuring the rear yard, the rear line of a building shall be a mean horizontal distance starting at the point where the principal building area, as defined in Subtitle B § 312, extends furthest from the front lot line.**

318.2 **Within a rear yard, the minimum required rear yard depth shall be measured as the mean horizontal distance between the rear line of a building and the rear lot line, except as provided in Subtitle B §§ 318.4 through 318.8 and elsewhere in this title.**

318.3 **The required rear yard shall be unoccupied for the full width of the lot, except as specifically authorized in this title.**

318.4 **In the R, RF, and RA zones, the depth of a required rear yard shall be measured as the mean horizontal distance from the rear line of a building toward the rear lot line for the full width of the lot, except as provided in Subtitle B §§ 318.5 through 318.8.**

318.45 **In the case of a lot that is triangular or irregularly shaped, the furthestmost point or line from the street lot line shall be deemed the point or line from which the required rear yard shall be measured.**

318.36 Where the rear lot line is not parallel to the street lot line, or where there are more than one (1) rear lot lines that intersect at a point at an angle greater than ninety degrees (90°), the required rear yard shall be measured as a vertical plane along a line measured in from the rear lot line at a point equidistant from the side lot lines.

318.47 Where a lot does not have a rear lot line, such as when the side yards converge at a point, or where the rear lot lines intersect at an angle less than ninety degrees (90°), a **required** rear yard shall be measured as an arc from the point opposite the front lot line(s). ~~and~~

318.58 Where there is more than one (1) rear lot line generally parallel to the front lot line but separated by a lot line generally perpendicular to the rear lot lines, then the **required** rear yard ~~setback~~ shall be measured from the rear lot line more distant from the front lot line, and measured across the full width of the property to where it intersects both side lot lines.

318.69 In the case of a corner lot in any D zone other than the D-1-R zone, a court complying with the width requirements for a closed court as specified in Subtitle I § 207.1 and Subtitle B § 324 may be provided in lieu of a rear yard. For the purposes of this section, the required court shall be provided above a horizontal plane twenty-five (25) feet above the mean elevation of the rear lot line.

318.710 In the case of a corner lot in the MU-1, MU-2, MU-8, MU-9, MU-15, NMU-8B/H-H, and CG-3 zones, a court complying with the width requirements

for a closed court as applicable for each zone may be provided in lieu of a rear yard. For the purposes of this section, the required court shall be provided above a horizontal plan beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building and the width of the court shall be computed for the entire height of court.

- 318.811 In the case of a through or corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

II. Amendments to Subtitle D, RESIDENTIAL HOUSE (R) ZONES

Section 5003, MAXIMUM BUILDING AREA, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RESIDENTIAL HOUSE (R) ZONES is proposed to be amended to read as follows:

5003 MAXIMUM BUILDING AREA

- 5003.1 The maximum building area for an accessory building in an R zone shall be an area equal to the greater of thirty percent (thirty percent (30%)) of the required rear yard or four hundred and fifty square feet (450 sq. ft.).

Section 5004, REAR YARD, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RESIDENTIAL HOUSE (R) ZONES is proposed to be amended to read as follows:

5004 REAR YARD

- 5004.1 An accessory building other than a shed may be located within a rear yard in an R zone provided that the accessory building is:

~~(a) — Not in a required rear yard; and~~

~~(b)~~(a) Set back at least seven and one-half feet (7.5 ft.) from the centerline of any alley; and

(b) Not occupying, in combination with all accessory buildings on a lot, more than thirty percent (thirty percent (30%)) of the area of a required rear yard.

- 5004.2 A shed may be located within a required rear yard of a principal building.

III. Amendments to Subtitle E, RESIDENTIAL FLATS (RF) Zones

Section 5003, BUILDING AREA, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RESIDENTIAL FLAT (RF) ZONES is proposed to be amended to read as follows:

5003 BUILDING AREA

5003.1 The maximum building area for an accessory building in an RF zone shall be an area equal to the greater of thirty percent (thirty percent (30%)) of the required rear yard or four-hundred and fifty square feet (450 sq. ft.).

Section 5004, REAR YARD, of Chapter 50, ACCESSORY BUILDING REGULATIONS FOR RESIDENTIAL FLAT (RF) ZONES is proposed to be amended to read as follows:

5004 REAR YARD

5004.1 An accessory building other than a shed may be located within a rear yard in an RF zone provided that the accessory building is:

~~(a) — Not in a required rear yard; and~~

~~(b)~~(a) Set back at least seven and one-half feet (7.5 ft.) from the centerline of any alley; and

(b) Not occupying, in combination with all accessory buildings on a lot, more than thirty percent (thirty percent (30%)) of the area of a required rear yard.

5004.2 A shed may be located within a required rear yard of a principal building.

IV. Amendments to Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES

Section 5003 REAR YARD, of Chapter 50, ACCESSORY BUILDINGS REGULATIONS FOR RESIDENTIAL APARTMENT (RA) ZONES is proposed to be amended to read as follows:

5003 REAR YARD

5003.1 An accessory building other than a shed may be located within a rear yard in an RA zone provided that ~~it~~ the accessory building is:

~~(a) — Not in a required rear yard; and~~

~~(b)~~(a) Set back at least seven and one-half feet (7.5 ft.) from the centerline of any alley-; and

(b) Not occupying, in combination with all accessory buildings on a lot, more than thirty percent (thirty percent (30%)) of the area of a required rear yard.

5003.2 A shed may be located in a required rear yard of a principal building.

V. Amendments to Subtitle I, DOWNTOWN ZONES

Section 205 REAR YARD, of Chapter 2 GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES is proposed to be amended as follows:

205 **REAR YARD**

205.1 Except as provided Subtitle B §§ 317 and 318.~~69~~ and in Subtitle I § 205.2, a rear yard shall be provided for each structure located in a D zone, the minimum depth of which yard shall be two and one-half inches (2.5 in.) per one foot (1 ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet, but not less than twelve feet (12 ft.).

...

205.3 The required rear yard shall be measured according to the regulations in Subtitle B § 31~~98~~, with the following exception: if the lot abuts an alley, the rear yard may be measured to the center line of an alley-abutting a rear-lot line, rather than to the rear lot-line, in which case, for this subsection, the term “center line of an alley abutting a rear lot line,” shall have the same meaning as the term “rear lot line”.

...