

## Comments in Opposition: ZC 25-11

**Summary:** The Zoning Commission should reject the proposal to significantly expand the “pushback” rule under ZC 25-11 as it is largely based on a flawed social engineering assessment while completely overlooking the foundational purpose of DC’s zoning regulations regarding adequacy of light and air, concentration of population, and quality of life (Subtitle A: 101). In particular:

- (1) The primary rationale, promotion of aging-in-place, is based on speculation. More importantly, the basis for this regulation is not logically reflective of the **downsizing** that is a far more typical action undertaken by older homeowners as they deal with the physical limitations of multi-floor row houses and the cost of maintaining aging structures.
- (2) The proposal provides no data to support its conclusion that Board of Zoning Adjustment (BZA) universal approvals to date of 16’ pushbacks indicate a need for a change in the rule; furthermore, OP does not contemplate that changing the rule would simply move the goalposts, enabling routine BZA approvals of special exception cases exceeding the 16’ limit.
- (3) The proposal fails to assess the disparate negative impact on lots of variable depth (e.g., for a 60’ rear yard lot, the pushback obstruction is 25% for 10’ but would nearly double to 40% for 16’).
- (4) The proposal fails to address variations in lot width, which present significant implications for blockage of light and air with larger pushbacks.

While acknowledgment of the pushback overreach seems evident in the recently submitted October 17 OP Report, which scales back the proposed increase from 10’ to 12’ for floors two and three, this revision does not address the totality of our concerns, which are explained in greater detail below.

### 1. Insufficient Assessment of Universal Design Standards

*OP: the average bedroom is recommended to be 16.5 feet by 15.5 feet (255.75 sf) and a universal bathroom to be 7 feet by 8 feet.”*

The bedroom size recommendation is completely inconsistent with current practices, indicating an unrealistic benchmark.<sup>1</sup> Furthermore, scant documentation is provided to support the assertion that aging-in-place will be facilitated by construction of rear-of-property additions. Given the highly speculative and unsubstantiated information, OP ignores other and perhaps more likely scenarios, including:

- (1) Older property owners may generally be averse to expenditure of funds on expansion of their properties as renovation projects are extremely expensive long-term investments.

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<sup>1</sup> AI Overview: The average bedroom size in the US is approximately 132 square feet, but this varies significantly by type of home, with apartments averaging around 132 sq ft and houses averaging about 219 sq ft. Standard or secondary bedrooms are typically 120-144 sq ft, while larger primary bedrooms can be 200-350 sq ft or more. Factors like home age, location, and overall home size influence average bedroom dimensions.

- (2) Older property owners in row houses are typically living alone or as couples in homes that once served entire families. Undertaking square footage expansions is nonsensical.
- (3) Older property owners may be more inclined to sell properties, almost all of which have realized significant appreciation, thereby creating more housing opportunities for new homeowners.
- (4) Second floor rowhouse pushback additions entail stair access and will not provide added accessibility to older adults and persons with disabilities.
- (5) Older owners may prefer to remain in place without facing the risk of loss of their outdoor spaces to super-sized pushbacks.

*Note: As for OP's admirable support for Universal Design Standards, these are routinely ignored/disregarded on a massive scale given the nature of row house conversions in today's market. Within the past 5-10 years, these conversions typically converted a single family rowhouse into 4 units but evolved to a configuration of 6-8 units. Given that downsizing is a typical option chosen by older individuals, the Zoning Commission and the Department of Buildings should assess the impact of these sub-sized units as they are not serving the needs of older individuals with access issues, never mind the needs of any individual seeking residency in a unit with adequate space.*

## **2. Weak Analysis of BZA Case Reviews**

*OP: "Based on a review of 36 cases over the past three years, 16 of the additions were 16 feet or less. This amendment would have reduced the number of projects that needed relief by 44%...." "All of the cases have been approved and all had support from the ANC and were recommended for approval by OP."*

OP's analysis presumes that 12 cases per year, and subsequent universal approval, is indicative of a need to remove such cases from the BZA docket. The presumption ignores the following possibilities about BZA operations. Each is equally and even more plausible than OP's speculation:

- (1) The BZA process is working. The 36 cases per year (1 per month) is not excessive and would be an expected and perhaps even underwhelming number of special exception cases in a city undergoing significant growth.
- (2) The BZA process is not working insofar that Board members, ANCs, and the OP are uncritically granting approvals.
- (3) Perhaps most significant, modification of the rule to 16' may simply move the goalposts and lead to routine BZA approval of extensions even greater than 16'.
- (4) A cursory look at several of these cases reveals a healthy give-and-take that resulted in project pushbacks of 16' that satisfied the ANC and various parties. Might a new 16' pushback rule remove the incentive to collaborate in project design?

## **3. Disparate Impact on Variably Deep Lot Sizes Not Addressed**

OP's analysis overlooks the basic purpose of the zoning regulations, outlined in Subtitle A-101, to " (a) Provide adequate light and air; (b) Prevent undue concentration of population and the overcrowding of land; and (c) Provide distribution of population, business and industry, and use

of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.”

The analytical deficiency is evident as OP does not provide any visual or narrative analysis on the impact on lots of variable rear yard length.<sup>2</sup> To illustrate such variable impacts, consider:

- For rear yards of 40’ in depth, upwards of 80% of neighboring rear yards would be obstructed by a 16’ addition (an increase from 50% under the 10’ rule). The obstruction would be nearly the entirety of the rear yard of the neighboring property.
- For rear yards of 60’ in depth, upwards of 40% of neighboring rear yards would be obstructed by a 16’ addition (an increase from 25% under the 10’ rule). This would be nearly double in proportion to current practice.
- Deeper lots (125’ deep) would see an obstruction of ~15% (an increase from the <10% obstruction under the 10’ rule). The increase is, relatively speaking, minimal.

In summary, under the proposed change from 10’ to 16’, the amount of obstruction for smaller rear yards would be nearly triple the proportion when compared to larger rear yards.

#### Variable Impact of Expanded Pushbacks Based on Rear Yard Lengths

Rear Yard	Minus Required Rear Yard	Open Rear Yard Remaining After 10' Extension	Open Rear Yard Remaining After 16' Extension	% of Neighboring Rear Yard Obstructed with 10' Extension	% of Neighboring Rear Yard Obstructed with 16' Extension
125	105	95	89	9.52%	15.24%
100	80	70	64	12.50%	20.00%
75	55	45	39	18.18%	29.09%
60	40	30	24	25.00%	40.00%
50	30	20	14	33.33%	53.33%
40	20	10	4	50.00%	80.00%

#### 4. Lot Width Not Addressed

OP also overlooks the central purpose of the zoning regulations in Subtitle A-101 in its failure to address the width of row house lots and the impact of expanded pushbacks. Given that additions will often reach three stories in height of upwards of 35 feet in height at the rear yard, the impact will be far greater for lots that are 18 feet and less in width. Like courts, expansions should be evaluated as a function of height and lot width, as is done in both building code and zoning

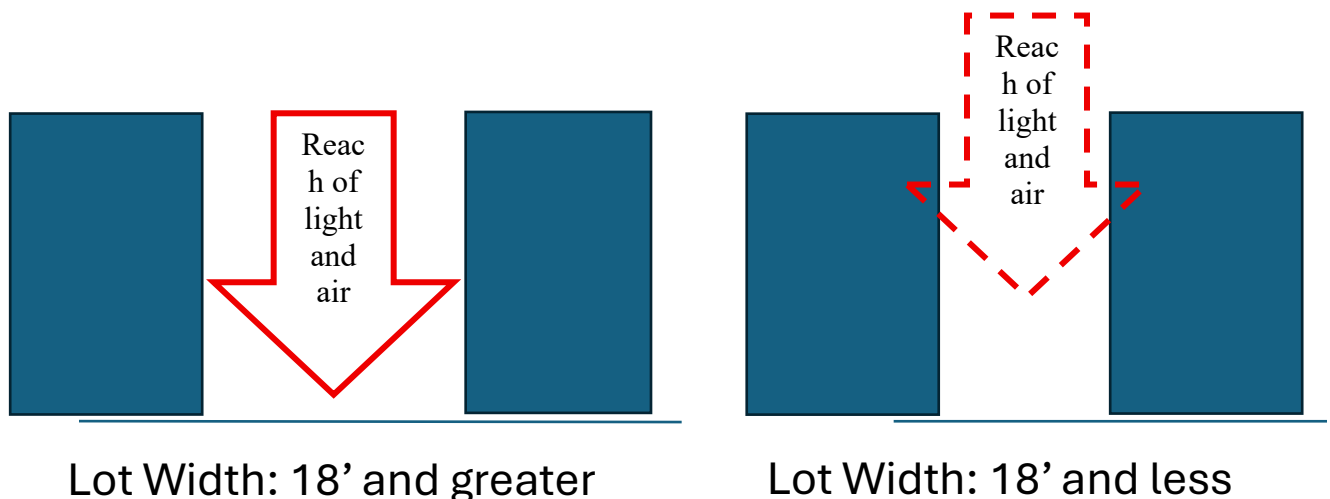
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<sup>2</sup> OP provides visually imprecise diagrams to represent the impact of rear-yard pushbacks under matter-of-right and special exception scenarios. Figure 2, After 14-11B, presents an implausible 22.5’ pushback beyond the allowable 10’ pushback. Figure 3 draws the proposed 16’ pushback at a scale that does not match the proportions of Figure 2 and then posits an additional and hopefully implausible additional 16-18’ special exception pushback.

regulations. Consider the illustrations on the following page, where thinner lots would see a far greater diminishment of light and air.

Setting pushback limits without considering the ability of light and air to reach space (which is a function of proportion) disregards basic architectural principles on the ability of light and air to reach the bottom of the “well.”

Any proposed changes to the regulations should manage natural light as a precious commodity, similar to water or energy, and establish regulations that ensure equitable access for those who do not wish to enclose their lots. These regulations should control the height and spacing of buildings and use terraced designs to setback upper levels, allowing sunlight to reach the lower floors of adjacent properties.



*\* Arrow dimensions are equal in size.*

## Conclusion

Rather than focusing on fundamental zoning considerations (see A-101), OP presents a speculative and implausible analysis that practically invites the reader to speculate that the goal is quite different: to provide an avenue for additional row house buildable area that is of little interest to older homeowners but is particularly appealing to developers.

City residents and the Zoning Commission have seen this play out before in deliberations over pop-ups and manipulations of basement/cellar designations and building height measurement points. The Zoning Commission, in partnership with residents and OP, has seen fit to revise the zoning regulations to provide more clarity in addressing these zoning loopholes. In continuation of that spirit, OP’s proposal should be rejected as it is contrary to the core purpose of zoning.

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