

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: Elisa Vitale, Development Review Specialist
JLS
Jennifer Steingasser,
Deputy Director, Development Review & Historic Preservation

DATE: September 4, 2020

SUBJECT: ZC Case 20-++ – Setdown and Pre-Hearing Report for a Proposed Zoning Text Amendment to Subtitle B, Definitions, Rules of Measurement, and Use Categories; Subtitle D, Residential House (R) Zones; Subtitle E, Residential Flat (RF) Zones; and Subtitle F, Residential Apartment (RA) Zones for Accessory Building Regulations

I. RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission set down for a public hearing amendments to the zoning regulations to clarify and provide consistency across the accessory building regulations.

This report also serves as the prehearing report required by Subtitle Z § 501.

II. BACKGROUND

The 2016 Zoning Regulations introduced the ability to use an accessory building for residential purposes in the Residential House (R) and Residential Flat (RF) zones. In the R zones, an accessory apartment can be within an accessory building and in the RF zones, one of the two permitted principal dwelling units can be within an accessory building. With the new regulations related to the use of accessory buildings, the accessory building development standards were revised to permit additional height and to regulate the footprint and placement of accessory buildings on a lot.

Having worked with the accessory building provisions over the last four years and reviewing Board of Zoning Adjustment requests for special exception and variance relief, OP is recommending refinements to the language to ensure consistency among the various Subtitles (accessory building provisions also appear in the Residential Apartment (RA) zones); to align the development standards with the pending alley lot text amendment case (ZC Case 19-13); and to modify certain development standards to facilitate the construction and use of accessory buildings for housing and other purposes.

While this text amendment focuses on the development standards contained in the Land Use Subtitles, OP anticipates bringing forward a companion case that proposes modifications to certain use related requirements for accessory apartments (R zones) and second principal units in accessory buildings (RF zones). The proposed text amendments are intended to respond to the District's

housing goals by removing barriers to housing; expanding the housing supply; and providing opportunities for additional housing units across the city on R, RF, and RA-zoned property.

III. PROPOSAL

The proposed new text will standardize language across the low density residential subtitles and address issues that have been identified through conversations with the Department of Consumer and Regulatory Affairs (DCRA), the Office of the Zoning Administrator, as well as through review of Board of Zoning Adjustment cases.

Shed

The regulations allowed for the placement of a small accessory building (no more than ten feet (10 ft.) in height and no more than one-hundred square feet (100 sq. ft.) in building area) in the required rear yard of a principal building in the RF zones. This was an attempt to allow for a small garden shed; however, a shed was not a defined term and the provision caused confusion with respect to the applicable development standards for accessory buildings.

OP is proposing to define a shed as an accessory building, not used for habitable purposes or automobile parking, that is less than ten feet (10 ft.) in height and no more than fifty square feet (50 sq. ft.) in area; and to permit a shed to be located in a required rear or side yard in the R, RF, and RA zones. This definition of a shed, while smaller than contemplated in ZR16, is consistent with the DCRA definition of a garden or storage shed.

Rules of Measurement

The regulations do not contain rules of measurement for accessory buildings; however, information regarding how height should be measured was included as part of the development standards. OP is proposing to create a new section in Subtitle B for rules of measurement for accessory buildings.

Height of Accessory Buildings

OP is proposing a slight increase to the permitted height of accessory buildings to allow two (2) additional feet of height. Accessory buildings are currently limited to two (2) stories and twenty (20 ft.) and OP recommends maintaining the limit on stories but increasing the height to twenty-two feet (22 ft.).

Accessory building height is measured to the highest point of the roof of the building. Allowing two additional feet of height would provide additional flexibility for two-story structures that may be intended to accommodate an accessory apartment (R zones) or second principal unit (RF zones).

Maximum Building Area/Lot Occupancy

The development standards regulate maximum building area in the R zones and lot occupancy in the RF and RA zones. OP proposes to standardize this language under the “Building Area” development standard in the R and RF zones and continue to limit the maximum building area for accessory buildings to the greater of thirty percent (30%) of the required rear yard or four-hundred and fifty square feet (450 sq. ft.). Zoning Commission Case 19-14, Nonconforming Structures, clarifies that special exception relief is available from the maximum building area provision for accessory buildings under § 5201.

Use Permissions

OP recommends deleting redundant use-related permissions that are contained in Subtitle U such as private parking in the RA zones (F-5004.4).

Georgetown Zone

The R-20 zone restricts accessory buildings to one (1) story and fifteen feet (15 ft.) in height; however, accessory apartments are permitted only on the second story of an accessory building. OP proposes to allow two (2) story accessory buildings that measure twenty-two feet (22 ft.) in height to address this disconnect between the development standards and use permissions in the R-20 zone and to create fair and equal opportunity across the District for accessory apartments. OP also proposes increasing the maximum permitted height of accessory buildings in the R-19 zone to twenty-two feet (22 ft.).

Alley Centerline Setback

Zoning Commission Case 19-13, Alley Lot text amendment proposes a reduction in the alley centerline setback requirement from twelve feet (12 ft.) to seven and one-half feet (7.5 ft.). OP proposes incorporating the same reduced alley setback for accessory buildings on street-facing lots.

IV. PROPOSED TEXT AMENDMENT

The Office of Planning (“OP”) requests the Zoning Commission set down for public hearing text amendments to the following sections of the Zoning Regulations and requests the flexibility to work with the Office of the Attorney General (OAG) and other government agencies to further refine the proposed language. Text to be deleted is marked with ~~strikethrough~~ and new text is shown in **bold and underlined**:

- a. Amend Subtitle B, Definitions to define a shed as follows:

100 DEFINITIONS

100.1 For the purpose of this title, the following definitions shall not be held...

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

...

Shed: An accessory building, not used for habitable or automobile purposes, that does not exceed 50 square feet (50 sq. ft.) in area and is less than 10 feet (10 ft.) in overall height.

...

- b. Amend Subtitle B, Rules of Measurement to add a new Section 329, Rules of Measurement for Accessory Buildings, as follows:

329 RULES OF MEASUREMENT FOR ACCESSORY BUILDINGS

329.1 The height of an accessory building shall be measured from the finished grade at the middle of the side of the accessory building that faces the main building to the highest point of the roof of the building.

- c. Amend Subtitle D, Chapter 12, Georgetown Residential House Zones to increase the maximum permitted height of an accessory building to twenty-two feet (22 ft.) and to permit a two-story accessory building in the R-20 zone as follows:

CHAPTER 12 GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20

...

1209 ACCESSORY BUILDINGS

1209.1 Accessory buildings ~~shall be permitted within an~~ in the R-19 ~~and/or~~ R-20 zones ~~shall be~~ subject to the ~~development regulations of this section.~~ **following conditions:**

...

1209.3 In the R-19 zone, an accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of ~~twenty-~~**two** feet (~~20-~~**22** ft.), a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of two (2) stories.

1209.4 In the R-20 zone, an accessory building within five feet (5 ft.) of a public or private vehicular alley may have a maximum height of ~~fifteen feet (15 ft.)~~**twenty-two feet (22 ft.)**, a maximum building area of four hundred and fifty square feet (450 sq. ft.) and a maximum number of ~~one (1) story~~**two (2) stories**.

1209.5 In the R-19 and R-20 zones, ~~an accessory building~~ **a shed may be permitted** on a property that is not adjacent to a public or private vehicular alley or that is more than five feet (5 ft.) from a public or private vehicular alley ~~may have a maximum height of ten feet (10 ft.) and a maximum building area of one hundred square feet (100 sq. ft.).~~

...

- d. Amend Subtitle D, Chapter 50, Accessory Building Regulations For R Zones to provide consistent language and formatting, conform alley setbacks to ZC Case 19-13, increase the permitted height of accessory buildings to twenty-two feet (22 ft.), and permit sheds in required side and rear yards as follows:

CHAPTER 50 ACCESSORY BUILDING REGULATIONS FOR R ZONES

5000 GENERAL PROVISIONS

5000.1 Accessory buildings ~~may~~**shall** be permitted within an R zone subject to the **following** conditions ~~of this section.:~~

- 5000.2 (a) An accessory building shall be subordinate to and located on the same lot as the principal building **to which it is accessory; provided, that required accessory parking space may be permitted on another lot where specifically permitted under other provisions of this title;** and
- (b) An accessory building shall be used for purposes ~~that~~**which** are incidental to the use of the principal building **but may house no more than one (1) accessory apartment;**
- (c) An accessory building shall not be constructed prior to a principal building on the same lot; and
- (d) An accessory building shall not be constructed in front of the principal building.

5000.32 An accessory building shall be secondary in size compared to the principal building; and shall **be considered within the lot occupancy and shall** comply with all required yards for accessory buildings based on the zone in which they are located.

~~5000.4 Notwithstanding Subtitle D § 5000.3, an accessory building shall not be located in the front yard of a lot in an R zone developed with a residential building.~~

5000.53 A private garage permitted in an R zone as a principal use on a lot other than an alley lot, shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within ~~twelve feet (12 ft.)~~ **seven and one-half feet (7.5 ft.)** of the center line of the alley upon which it opens.

5001 DEVELOPMENT STANDARDS

5001.1 The bulk of accessory buildings in the R zones shall be controlled through the development standards in Subtitle D §§ 5002 through 5006.

5002 HEIGHT

5002.1 The maximum height of an accessory building in an R zone shall be two (2) stories and twenty ~~two~~ **two** feet (~~20~~ **22** ft.), ~~including the penthouse. The height of an accessory building permitted by this section shall be measured from the finished grade at the middle of the side of the accessory building that faces the main building to the highest point of the roof of the building.~~

5003 LOT OCCUPANCY BUILDING AREA

5003.1 ~~An accessory building in an R zone as a principal use on a lot other than an alley lot shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy of the zone in which the lot is located.~~ **The maximum building area for an accessory building in an R zone shall be the greater of thirty (30%) of the required rear yard area or four hundred and fifty square feet (450 sq. ft.)**

5004 REAR YARD

5004.1 An accessory building in an R zone may be located within a rear yard provided, where abutting an alley, it shall be set back at least ~~twelve feet (12 ft.)~~ **seven and one-half feet (7.5 ft.)** from the center line of the alley.

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

5005 SIDE YARD

5005.1 ~~No minimum side yard is required for an~~ **An** accessory building in a R zone, ~~unless the accessory building is~~ **may be** located ~~beside the principal building~~ **in a side yard**, whereby it shall be **provided that the accessory building is** removed from the side lot line a distance equal to the required side yard and from the principal building a minimum of ten feet (10 ft.).

5005.2 A shed may be located in a required side yard of a principal building.

5006 ~~[RESERVED] MAXIMUM BUILDING AREA~~

5006.1 ~~The maximum building area for an accessory building in an R zone shall be the greater of thirty (30%) of the required rear yard area or four hundred and fifty square feet (450 sq. ft.).~~

5007 SPECIAL EXCEPTION

5007.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 and subject to the provisions and limitation of Subtitle D § 5201.

...

- e. Amend Subtitle E, Chapter 50 Accessory Building Regulations for RF Zones to provide consistent language and formatting, conform alley setbacks to ZC Case 19-13, increase the permitted height of accessory buildings to twenty-two feet (22 ft.), and permit sheds in required side and rear yards as follows:

CHAPTER 50 ACCESSORY BUILDING REGULATIONS FOR RF ZONES

5000 GENERAL PROVISIONS

5000.1 Accessory buildings shall be permitted within an RF zone subject to the following conditions:

- (a) An accessory building shall be subordinate to and located on the same lot as the building to which it is accessory; provided, that required accessory parking space may be permitted on another lot where specifically permitted under other provisions of this title;

- (b) An accessory building shall be used for purposes which are incidental to the use of the principal building but may house no more than one (1) principal unit;
- (c) An accessory building shall not be constructed prior to a principal building on the same lot; and
- (d) An accessory building shall not be constructed in front of the principal building.

5000.2 The accessory buildings shall be secondary in size compared to the principal building, and shall be considered within the lot occupancy, pervious surface, as applicable the floor area ratio requirements of the RF zones.

5000.3 A private garage permitted in an RF zone as a principal use on a lot other than an alley lot, shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within ~~twelve feet (12 ft.)~~ **seven and one-half feet (7.5 ft.)** of the center line of the alley upon which it opens.

5001 DEVELOPMENT STANDARDS

5001.1 The bulk of accessory buildings in the RF zones shall be controlled through the development standards in Subtitle E §§ 5002 through 5006.

5002 HEIGHT

5002.1 The maximum permitted height for an accessory building in an RF zone shall be twenty-~~two~~ **two** feet (~~20~~ **2** ft.) and two (2) stories, ~~including the penthouse.~~

5003 ~~LOT OCCUPANCY~~ BUILDING AREA

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

5004 REAR YARD

5004.1 No minimum rear yard is required for an accessory building in an RF zone except when abutting an alley, where it shall be set back at least ~~twelve feet (12 ft.)~~ **seven and one-half feet (7.5 ft.)** from the center line of the alley.

5004.2 ~~An accessory building shall be permitted.~~ **A shed may be located** in a required rear yard of a principal building, ~~pursuant to the following conditions:~~

- (a) ~~The accessory building is less than ten feet (10 ft.) in height; and~~
- (b) ~~The accessory building is less than one hundred square feet (100 sq. ft.) in gross floor area.~~

5004.3 If the required rear yard of the principal building in which the accessory building will be placed abuts an alley, the accessory building shall be set back at least ~~twelve feet (12 ft.)~~ **seven and one-half feet (7.5 ft.)** from the center line of the alley.

5005 SIDE YARD

- 5005.1 No minimum side yard is required for an accessory building in an RF zone.
- 5005.2 ~~An accessory building shall be permitted pursuant to the following conditions:~~ **A shed may be located** in a required side yard of a principal building, ~~pursuant to the following conditions:~~
- ~~(a) The accessory building is less than ten feet (10 ft.) in height;~~
 - ~~(b) The accessory building is less than one hundred square feet (100 sq. ft.) in gross floor area; and~~
- 5005.3(e)** If the required side yard of the principal building in which the accessory building will be placed abuts an alley, the accessory building shall be set back at least ~~twelve feet (12 ft.)~~ **seven and one-half feet (7.5 ft.)** from the center line of the alley.

5006 ~~[RESERVED]~~ **MISCELLANEOUS**

- 5006.1 ~~The development standards that permit the following uses are located in Subtitle U, Chapter 3:~~
- ~~(a) A permitted principal dwelling unit in an RF zone within an accessory building; and~~
 - ~~(b) A private vehicle garage that is an accessory building in an RF zone.~~

5007 **SPECIAL EXCEPTION**

- 5007.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, and subject to the provisions and limitations of Subtitle E §§ 5201.

- f. Amend Subtitle F, Chapter 50 Accessory Building Regulations (RA) to provide consistent language and formatting, conform alley setbacks to ZC Case 19-13, and increase the permitted height of accessory buildings to twenty-two feet (22 ft.) as follows:

CHAPTER 50 ACCESSORY BUILDINGS REGULATIONS FOR (RA) ZONES

5000 **GENERAL PROVISIONS**

- 5000.1 Accessory buildings shall be permitted within an RA zone subject to the following conditions:
- (a) ~~The~~ **An** accessory building ~~is~~ **shall be** subordinate to and located on the same lot as the building to which it is accessory; provided, that required accessory parking space may be permitted on another lot where specifically permitted under other provisions of this title;
 - (b) An accessory building shall be used for purposes which are incidental to the use of the principal building; and
 - (c) An accessory building shall not be constructed prior to a principal building on the same lot.
- 5000.2 The accessory buildings shall be secondary in size compared to the principal building; and shall be considered within the lot occupancy; **Green Area Ratio**

(GAR); and FAR, if applicable; and shall comply with all required yards for accessory buildings based on the zone in which they are located.

5001 DEVELOPMENT STANDARDS FOR ACCESSORY BUILDINGS

5001.1 The bulk of accessory buildings in the RA zones shall be controlled through the development standards in Subtitle F §§ 5001 through 5004.

5002 HEIGHT

5002.1 The maximum permitted height for an accessory building shall be twenty-**two** feet (~~2022~~ ft.) and two (2) stories.

5003 REAR YARD

5003.1 No rear yard shall be required for an accessory building except where abutting an alley ~~a minimum rear yard of twelve feet (12 ft.) shall be provided measured from the center line of the alley,~~ **it shall be set back at least seven and one-half feet (7.5 ft.) from the center line of the alley.**

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

5004 MISCELLANEOUS SIDE YARD

5004.1 ~~The lot upon which a private garage is located shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy.~~ **An accessory building in an RA zone may be located in a side yard provided that the accessory building is removed from the side lot line a distance equal to the required side yard and from the principal building a minimum of ten feet (10 ft.).**

5004.2 ~~Accessory buildings on any lot shall be included in the maximum lot occupancy and GAR requirements and if applicable, the FAR, as listed and conditioned in this subtitle and the development standards of the penthouse regulations in Subtitle C, Chapter 15.~~ **A shed may be located in a required side yard of a principal building.**

5004.3 ~~A private garage that is an accessory building in an RA zone:~~

- (a) ~~May be located either within a rear yard or beside the main building; provided, if the garage is located beside the main building, it shall be removed from the side lot line a distance equal to the required side yard and from all building lines a distance of not less than ten feet (10 ft.); and~~
- (b) ~~Where abutting an alley, it shall be set back at least twelve feet (12 ft.) from the center line of the alley.~~

5004.4 ~~A private garage permitted in an RA zone as a principal use on a lot other than an alley lot shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of the front building line or within twelve feet (12 ft.) of the center line of an alley.~~

5005 SPECIAL EXCEPTION

5005.1 Exceptions to the development standards of this chapter shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X and subject to the provisions and limitations of Subtitle F § 5201.

V. PLANNING CONTEXT

The proposed changes to the regulations would be not inconsistent with the Comprehensive Plan and would not impact the Future Land Use Map or the Generalized Policy Map. The proposed changes provide consistent language across the zones, eliminate inconsistencies, and provide flexibility with respect to height and alley centerline setbacks that would facilitate the construction of additional housing in the District and would further the following policies in the Land Use and Housing Element of the Comprehensive Plan.

Policy LU-2.1.7: Conservation of Row House Neighborhoods *Protect the character of row house neighborhoods by requiring the height and scale of structures to be consistent with the existing pattern, considering additional row house neighborhoods for “historic district” designation, and regulating the subdivision of row houses into multiple dwellings. Upward and outward extension of row houses which compromise their design and scale should be discouraged.* 309.12

H-1.1 Expanding Housing Supply *Expanding the housing supply is a key part of the District’s vision to create successful neighborhoods. Along with improved transportation and shopping, better neighborhood schools and parks, preservation of historic resources, and improved design and identity, the production of housing is essential to the future of our neighborhoods. It is also a key to improving the city’s fiscal health. The District will work to facilitate housing construction and rehabilitation through its planning, building, and housing programs, recognizing and responding to the needs of all segments of the community. The first step toward meeting this goal is to ensure that an adequate supply of appropriately zoned land is available to meet expected housing needs.* 503.1

Policy H-1.1.3: Balanced Growth *Strongly encourage the development of new housing on surplus, vacant and underutilized land in all parts of the city. Ensure that a sufficient supply of land is planned and zoned to enable the city to meet its long-term housing needs, including the need for low- and moderate-density single family homes as well as the need for higher-density housing.* 503.4

Policy H-1.5.1: Land and Building Regulations *Ensure that the District’s land regulations, including its housing and building codes, its zoning regulations, its construction standards, and its permitting fees, enable the production of housing for all income groups. Avoid regulations which make it prohibitively expensive or difficult to construct housing.* 507.2

Mayor’s Order on Housing

In 2019, Mayor Bowser set a goal to add 36,000 new homes in the District by 2025. The Order requires District agencies to undertake a review of how existing affordable housing is either concentrated in the District, threatened to be removed, or is extremely limited in availability as a result of historic exclusionary and discriminatory land use decisions. OP and DHCD are working together to develop a housing framework to examine how existing policies can be amended and how new policies can be created to increase affordable housing availability through a fair and equal distribution throughout the District.

Housing Equity Report: Creating Goals for Areas of Our City

The Mayor’s Housing Equity Report creates area-specific goals for affordable housing and dedicate an entire initiative to examining the barriers and opportunities within each area.

Removing barriers to locating permitted dwelling units in accessory buildings would expand the housing supply and provide opportunities for additional housing units across the city on R-, RF-, and RA-zoned property.

JS/emv