

## Staff Report

**TO:** District of Columbia Zoning Commission  
**FROM:** <sup>JLS</sup>  
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Deputy Director, Development Review & Historic Preservation  
**DATE:** July 18, 2019  
**SUBJECT:** Preliminary and Pre-hearing Report, Request for a Text Amendment to the Zoning Regulations, 11 DCMR, Subtitles C, D, E, and X

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## **I. RECOMMENDATION**

The Office of Planning (OP) recommends the Commission set down for public hearing this text amendment to modify Subtitle C, § 202.2, Subtitle D, Chapter 52 and Subtitle E, Chapter 52 of the Zoning Regulations.

Subtitle C§ 202.2 regulates enlargements and additions to nonconforming structures. Subtitle C§ 202.2(b) can be read to require additional relief that often causes confusion in the evaluation of special exceptions to certain development standards. This amendment would clarify that conforming enlargements or additions to nonconforming structures would be permitted and relief is only required when a nonconformity is extended or created. Additional relief would no longer be needed from C § 202.2 itself as part of the special exception process of Chapter 52. This amendment would also remove references to Subtitle C§ 202.2 in Subtitles D, E and X.

Amendments to Subtitle D, Chapter 52 and Subtitle E, Chapter 52 clarify the development standards eligible for special exception relief for 1) additions to residential buildings on street-facing lots, 2) new or expansions of accessory structures and 3) new or expansions of buildings on alley lots. The proposed amendments to D-Chapter 52 and E-Chapter 52 also reflect the recently set down text for amendments to alley lots (ZC 19-13) and the new format for new zone names.

This report serves as the prehearing report required by Subtitle Z § 501. OP requests the flexibility to work with the Office of Attorney General on any conforming language and to refine the proposed text as necessary.

## **II. 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 (text to be deleted is marked with ~~strikethrough~~ and new text is shown in **bold and underlined**):

### **I. Subtitle C GENERAL RULES**

Amend Subtitle C, General Rules, Chapter 2, Nonconforming Structures, subsection 202.2 as

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follows:

## **202 NONCONFORMING STRUCTURES**

202.1 . . .

202.2 Enlargements or additions may be made to the structure; provided that the addition or enlargement itself shall:

(a) Conform to the use and development standard requirements; and

(b) Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.

(c) Enlargements or additions that do not comply with (a) or (b) must be approved by variance relief, or where provided for in this title, as a special exception from the applicable development standard requirements.

## **II. Subtitle X GENERAL PROCEDURES**

Amend Subtitle X General Procedures, Chapter 10, Variances, subsection 1001.3 as follows:

### **1001 VARIANCE TYPES**

1001. . . .

1001.3 Examples of area variances are requests to deviate from:

(a) . . .

(d) Limitations on the alteration or conversion of certain structures on alley lots as stated in Subtitle D § 1610; Subtitle E § 1104; Subtitle F § 903; and Subtitle G § 1503; and

~~(e) The prohibition against certain enlargements and additions to nonconforming structures as stated at Subtitle C § 202; and~~

~~(e)~~ (e) Preconditions to the establishment of a matter-of-right use including, but not limited to, the minimum land area requirement of Subtitle U § 301.2(c) applicable to the conversion of a building to an apartment house as permitted by Subtitle U § 301.2; provided, that the waiver would not cause the proposed use to meet the definition of a more intense use

## **III. Subtitle D Residential House Zones and Subtitle E Residential Flat Zones.**

Amend Chapter 52, **RELIEF FROM REQUIRED DEVELOPMENT STANDARDS**, of Subtitles D and E are as follows:

## **CHAPTER 52 RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS**

Amend Section 5200, **GENERAL PROVISIONS**, as follows:

### **5200 GENERAL PROVISIONS**

5200.1 The ~~following~~ provisions **of this chapter** provide for special exception relief to the specified development standards and regulations subject to the provisions of each section and the general special exception criteria at Subtitle X, Chapter 9.

5200.2 ~~Requested relief that does not comply with specific conditions or limitations of a special exception shall be processed as a variance~~ **A project that does not comply with the maximum permitted lot occupancy special exception under Subtitle D § 5201.4 may still request relief from one (1) or more development standards authorized by Subtitle D §§ 5201.1, 5201.2.**

~~5200.3~~ **A project that does not comply with a condition or limitation of a special exception authorized by Subtitle D §§ 5201.1, 5201.2, or 5201.3, may request a variance as separate relief to the condition or limitation and may request special exception relief from other applicable standards under Subtitle D §§ 5201.1, 5201.2, or 5201.3.**

Amend Section 5201 as follows:

### **5201 ~~ADDITION TO A BUILDING OR ACCESSORY STRUCTURE~~ RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS**

5201.1 The Board of Zoning Adjustment may approve as a special exception in the R **and RF** zones relief from the following development standards **for an addition to a residential building on a street-facing lot with one (1) principal dwelling unit** ~~of this subtitle~~ subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:

**(a) Lot occupancy;**

**(b) Yards;**

**(c) Courts; ; and**

~~**(d) Minimum Lot dimensions;**~~

~~(e)~~ **(d) Pervious surface; and**

~~(f) — The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2~~

**5201.2** ~~Special exception relief under this section is applicable only to the following:~~

~~(a) — An addition to a building with only one (1) principal dwelling unit; or~~

~~(b) — A new or enlarged accessory structure that is accessory to such a building~~

~~(c) — A reduction in the minimum setback requirements of an alley lot. (SubE, §5201.2 only)~~

**The Board of Zoning Adjustment may approve as a special exception in the R and RF zones relief from the following development standards for a new or enlarged accessory structure to a residential building subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:**

**(a) Lot occupancy or maximum building area**

**(b) Yards;**

**(c) Courts, and**

**(d) Pervious surface.**

5201.3

**The Board of Zoning Adjustment may approve as a special exception in the R and RF zones relief from the following development standards for a new or enlarged building on an alley lot subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9**

**(a) Yards;**

**(b) Alley centerline setback; and**

**(c) Pervious surface.**

**5201.4**

**The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot as authorized in §§ 5201.1 and 5201.2, as specified in the following table:**

**TABLE D § 5201.4: MAXIMUM PERMITTED LOT OCCUPANCY**

<b><u>Zone</u></b>	<b><u>Maximum Lot Occupancy</u></b>
<b><u>R-3</u></b> <b><u>R-13</u></b> <del><b><u>R-16</u></b></del> <b><u>R-17</u></b>	<b><u>70%</u></b>
<b><u>R-20 (R-3/GT)</u></b> <b><u>Row dwellings only</u></b>	<b><u>70%</u></b>
<b><u>R-20 (R-3/GT)</u></b> <b><u>Detached and semi-detached dwellings</u></b>	<b><u>50%</u></b>

<b>All Other R zones</b>	
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~~5201.3~~ **5201.5** An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
- (c) The addition or accessory structure, together with the original building, or the alley lot building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage; **and**
- (d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; ~~and~~
- ~~(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot as authorized in §§ 5201.1 and 5201.2, as specified in the following table:~~

~~TABLE D § 5201.4: MAXIMUM PERMITTED LOT OCCUPANCY~~

Zone	Maximum Lot Occupancy
R-3 R-13 <del>R-16 R-17</del>	70%
<del>R-20 (R-3/GT) Row dwellings only</del>	70%
<del>R-20 (R-3/GT) Detached and semi-detached dwellings</del>	50%
<del>All Other R zones</del>	

~~5201.4~~

**5201.6** The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

~~5201.5~~

**5201.7** This section ~~may~~ **shall** not be used to permit the introduction or expansion of a nonconforming use ~~as a special exception~~.

~~5201.6~~

**5201.8** This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.

**5201.9** **A request for relief from alley centerline setback requirements shall be referred by the Office of Zoning to the Office of Planning, who shall coordinate review of the application and prepare an analysis of the proposal, which shall include comments or recommendations from relevant government agencies, including, but not limited to:**

**(a) District Department of Transportation (DDOT);**

**(b) Department of Public Works (DPW);**

**(c) Metropolitan Police Department (MPD);**

**(d) Fire and Emergency Medical Services Department (FEMS);**

**(e) DC Water (WASA); and**

**(f) If a historic district or historic landmark is involved, the Historic Preservation Office (HPO).**