

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**DISTRICT OF COLUMBIA ZONING COMMISSION**  
**SPECIAL PUBLIC MEETING**

TEXT AMENDMENTS-SPECIAL  
EXCEPTION PROVISIONS FOR  
SINGLE-FAMILY DWELLINGS      Case Nos. 97-2/94-6  
& ADMINISTRATIVE  
FLEXIBILITY PROVISIONS

Monday,  
February 23, 1998

Room 220  
441 Fourth Street, N.W.  
Washington, D.C.

The hearing in the above-entitled matter was convened, pursuant to notice, at 6:41 p.m.

**BEFORE:**

MAYBELLE TAYLOR BENNETT, Chairperson  
HERBERT FRANKLIN, Commissioner  
JOHN PARSONS, Commissioner

**STAFF PRESENT:**

MADALIENE H. DOBBINS  
KENNETH KARKEET

**OFFICE OF PLANNING:**

DAVE COLBY

AGENDA

Page

Preliminary matters

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Final Action on cases 97-2/97-6

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P-R-O-C-E-E-D-I-N-G

6:41 p.m

CHAIRPERSON BENNETT: Good evening, Ladies and Gentlemen. My name is Maybelle Taylor Bennett. I'm chairperson for the Zoning Commission for the District of Columbia and this is a special public meeting, the 1072nd meeting of the Commission and the third of 1998.

We'll start with this public -- this special public meeting with preliminary matters.

Ms. Dobbins.

MS. DOBBINS: Good evening, Madam Chair, members of the Commission.

There are no preliminary matters associated with this special meeting other than I hope you had an opportunity to read this report that you got at the eleventh hour.

CHAIRPERSON BENNETT: That's right, the eleventh hour is better than no hour at all.

And I found that the order is in pretty good shape. There are some small typographical --

MS. DOBBINS: That's because I did it myself.

CHAIRPERSON BENNETT: -- errors. And I made note of those, at least the ones that I caught.

Let's turn, colleagues, if we might, to the top of page 8. This is an instance where the author put in italics a reminder of our not having resolved an issue. And this is the section of the order which talks about -- which outlines several issues and identifies whether or not we actually resolved them. And if so, how?

In item 1, it says, "references to single family dwellings could be changed" -- this is a suggestion made -- should be changed to "one family dwellings

1 to conform to the current terminology used in new zoning regulations." And in italics  
2 it says, "the commission did not resolve this issue."

3 As I continue to read through the order, I'm happy with single  
4 family dwelling as it is. If my colleagues have any other thoughts? I can't remember  
5 why, aside of standardizing terminology, we might want to do that.

6 And we have made it clear in the final proposed regulations that  
7 we would be including flats in those residential districts where a flat is permitted. So  
8 that, I think that we've got enough clarity here to eliminate confusion but I'm going to  
9 open this discussion up and see what you think.

10 Now, don't be shy. Mr. Williams is familiar with all of us and our  
11 deliberative process.

12 COMMISSIONER PARSONS: Well, single dwellings has been a  
13 term of art in the zoning regulations for how many years?

14 CHAIRPERSON BENNETT: Well, longer than I've been here.

15 COMMISSIONER PARSONS: So, why is it broke?

16 CHAIRPERSON BENNETT: I don't think it is.

17 COMMISSIONER PARSONS: I don't either.

18 CHAIRPERSON BENNETT: Mr. Franklin?

19 COMMISSIONER FRANKLIN: You know that I haven't been here  
20 very long, so I will defer to the veterans and their judgment. Generally speaking, I  
21 prefer consistency but I don't think anyone's going to be confused --

22 CHAIRPERSON BENNETT: I don't think so either.

23 COMMISSIONER FRANKLIN: -- one way or the other.

24 CHAIRPERSON BENNETT: All right. So, then, the only thing I  
25 would do would be eliminate the italics and --

26 COMMISSIONER FRANKLIN: However, Madam Chair, there is --

27 CHAIRPERSON BENNETT: Do you have any other subsequent -

28 -

1 COMMISSIONER FRANKLIN: Yes. If you look at paragraph 5.

2 CHAIRPERSON BENNETT: Same page.

3 COMMISSIONER FRANKLIN: Same page, second sentence.

4 One percent to two percent would be insignificant and therefore specific dimensional  
5 variations should be provided for linear requirements.

6 CHAIRPERSON BENNETT: That was a suggestion made by Mr.  
7 Williams.

8 COMMISSIONER FRANKLIN: I believe that that suggestion is  
9 well taken. Are we past the point where we can adjust our language to reflect that?

10 CHAIRPERSON BENNETT: No. No, no, that's why we're here  
11 again.

12 COMMISSIONER FRANKLIN: Well, I would -- we're talking about  
13 rear and side yards, is that correct?

14 CHAIRPERSON BENNETT: Right. And linear dimensions where  
15 you're dealing with eight feet instead of a lot occupancy or area dimensions.

16 COMMISSIONER FRANKLIN: I think that a 10 percent variation  
17 on the linear is still within a de minimis category. So, I would propose that. If it's  
18 eight feet --

19 CHAIRPERSON BENNETT: Eight feet would be, what, 96  
20 inches?

21 COMMISSIONER FRANKLIN: Yes, 96 inches. So, we're talking  
22 about roughly nine and a half inches as a 10 percent variation.

23 CHAIRPERSON BENNETT: No problem. I don't have a problem  
24 with that.

25 COMMISSIONER FRANKLIN: So, therefore, Madam Chair, as I  
26 read it, we would be amending the stated text.

27 CHAIRPERSON BENNETT: In 223.3?

28 COMMISSIONER FRANKLIN: Well, 407.1 is what I first looked at.

1 That's the flexibility provision. After the word chapter, there should be added, "or 10  
2 percent of the linear requirements of sections," whatever they are.

3 CHAIRPERSON BENNETT: But, would we not also have to -- No,  
4 no, I'm sorry. 223.3 deals with lot occupancy.

5 COMMISSIONER FRANKLIN: Right. And that's covered by the  
6 two percent.

7 CHAIRPERSON BENNETT: And so, it's two percent wiggle room  
8 on top of that?

9 COMMISSIONER FRANKLIN: Right.

10 CHAIRPERSON BENNETT: All right. And that's an area.

11 COMMISSIONER FRANKLIN: Correct.

12 CHAIRPERSON BENNETT: So, if we come down to 407, now  
13 we're talking about the zoning administrator's leeway.

14 COMMISSIONER FRANKLIN: Flexibility.

15 CHAIRPERSON BENNETT: But I guess what I'm trying to figure  
16 out, and maybe once I get Ms. Dobbins' attention --

17 COMMISSIONER PARSONS: We're revisiting the previous issue  
18 over here.

19 CHAIRPERSON BENNETT: And we are at the next issue. We'll  
20 go back to your issue if you'd like.

21 COMMISSIONER PARSONS: Thank you.

22 CHAIRPERSON BENNETT: In 223.1, it says that we'll be able to  
23 -- if an addition does not comply with 401, 403, 404, 405, or 406 -- Now, because I  
24 don't have them in front of me, I'm not sure what is side yard, rear yard, non-  
25 occupancy, dah, dah, dah, dah, dah, dah, dah. But I'm imagining that in that list  
26 there are some area and there are some linear. And so, therefore, it seems to me  
27 that somewhere in 223 we ought to allow for both the flexibility in area and your ten  
28 percent flexibility in linear.

1 COMMISSIONER FRANKLIN: Madam Chair, I don't think we  
2 have to do that.

3 CHAIRPERSON BENNETT: Don't think so?

4 COMMISSIONER FRANKLIN: In 223. I think we have to it with  
5 407.1. That's the flexibility provision. And it's an administrative flexibility for the  
6 zoning administrator.

7 CHAIRPERSON BENNETT: Only there?

8 COMMISSIONER FRANKLIN: But I'm going to check on these  
9 401, 403, et cetera, and I have the regulations here.

10 CHAIRPERSON BENNETT: So, if I come in and I don't have the  
11 appropriate side yard, the only flexibility I get is that deemed by the zoning  
12 administrator within the two percent? Or in the case of the linear suggestion here,  
13 the ten percent?

14 COMMISSIONER FRANKLIN: That's my understanding.

15 404 is rear yard and 405 is side yard.

16 CHAIRPERSON BENNETT: So, those would require linear  
17 flexibility that would be granted in 407 and no where in 223. 223 would simply allow  
18 -- No, no, no, no.

19 MS. DOBBINS: Courts would be linear, too, I would imagine.

20 COMMISSIONER FRANKLIN: That's just 406. 406 is --

21 CHAIRPERSON BENNETT: That's 406.

22 MS. DOBBINS: So, 404, 405, and 406?

23 COMMISSIONER FRANKLIN: 401 is minimum lot dimensions.

24 402 is FAR. 403 is percentage of lot occupancy. 404 is rear yard. 405 is side yard.  
25 And 406 is courts.

26 CHAIRPERSON BENNETT: So, I guess what I'm saying is, here I  
27 am. I've got an addition that is -- that does not comply with the rear yard  
28 requirements. I meet the standards as set forth in 223.2(a) through (d). And the

1           only way I can get this special exception that I'm applying for for my addition is  
2           through the application of the zoning administrator's discretion?

3                           I didn't think so. I thought -- but I suppose so. Because, in 223.3,  
4           that deals only with lot occupancy.

5                           MS. DOBBINS: That's right.

6                           CHAIRPERSON BENNETT: We don't get the 50 percent or 70  
7           percent. That applies to one specific measure. It does not apply to lot dimension. It  
8           does not all this other stuff.

9                           COMMISSIONER FRANKLIN: We're trying to keep things from  
10          even getting to the BZA by giving the zoning administrator some flexibility.

11                          CHAIRPERSON BENNETT: All right. So, if in 407 we go to after  
12          the word chapter?

13                          COMMISSIONER FRANKLIN: I would change my suggestion,  
14          Madam Chair, and say, where it says exceed two percent of the area requirements -  
15          -

16                          CHAIRPERSON BENNETT: With Sections 401 and 403.

17                          COMMISSIONER FRANKLIN: -- sections 401 and 403.

18                          CHAIRPERSON BENNETT: And then ten percent.

19                          COMMISSIONER FRANKLIN: And ten percent of linear  
20          requirements of 404, 405, and 406.

21                          MS. DOBBINS: So you want to keep a percentage on the  
22          minimum lot dimensions, too?

23                          CHAIRPERSON BENNETT: Give the zoning administrator ten  
24          percent leeway in minimum lot dimension.

25                          MS. DOBBINS: Ten percent of 7,500 feet, ten percent of 75 feet.  
26          Is that the intent? That's a linear.

27                          COMMISSIONER FRANKLIN: No, I think the intent -- Which one  
28          is lot dimensions?

1 CHAIRPERSON BENNETT: 401.

2 COMMISSIONER FRANKLIN: 401.

3 MS. DOBBINS: Which would include your lot area and your lot  
4 width.

5 COMMISSIONER FRANKLIN: Well, I have a calculator here but I  
6 don't know whether I ought to fiddle with it. But it seems to me if you start grafting  
7 on ten percent on the linear side, you may end up with an area difference that  
8 exceeds two percent of the area. So, I would think we would not want to include it  
9 except with respect to the side and the rear yard requirements.

10 MS. DOBBINS: That's what I'm trying to be sure of.

11 CHAIRPERSON BENNETT: Then we'll limit the ten percent  
12 flexibility to 405 -- 404 and 405.

13 COMMISSIONER FRANKLIN: Right.

14 COMMISSIONER PARSONS: Can you help me with the specific  
15 change you're talking about?

16 CHAIRPERSON BENNETT: We're down in 407.1. And what  
17 we're saying is that the zoning administrator would be authorized to permit a  
18 deviation not to exceed two percent of the area requirements for 401, which is lot  
19 dimensions; 403, which is lot occupancy; and 406 which is courts.

20 But it would -- we would allow the zoning administrator to permit a  
21 deviation not to exceed ten percent in 404, which is rear yards, and 405, which is  
22 side yards.

23 COMMISSIONER FRANKLIN: And courts.

24 CHAIRPERSON BENNETT: No, I thought that courts came out of  
25 there.

26 COMMISSIONER FRANKLIN: Oh, you're right. You're right.  
27 Courts would be covered by the two percent.

28 COMMISSIONER PARSONS: Yes.

1 MS. DOBBINS: Would be what?

2 COMMISSIONER PARSONS: Two.

3 COMMISSIONER FRANKLIN: Covered by the two percent.

4 COMMISSIONER PARSONS: So, that results in a new section A  
5 or something?

6 CHAIRPERSON BENNETT: No, an expanded Section 407.1.

7 Any further discussion?

8 Colleagues?

9 COMMISSIONER PARSONS: I need to revisit one family. In  
10 reviewing existing regulations, and much to my shock and amazement, somebody  
11 has removed the term single family regulation, period. It is not there. It's gone. It  
12 isn't even in defined terms. It is now one family dwelling or dwelling, comma, one  
13 family. So, in order to conform, I think we should stick but not -- no, change this to  
14 one family even though I can't relate to it, it's been so many years. I guess I'll get  
15 used to it. But it is an undefined term and therefore not wise to pass a regulation at  
16 this point that doesn't conform to the rest.

17 CHAIRPERSON BENNETT: Mr. Franklin, your thoughts?

18 COMMISSIONER FRANKLIN: I have no problem. As I say, I  
19 prefer consistency.

20 COMMISSIONER PARSONS: Yes, it would be a stand alone. It  
21 would need a definition, I guess, to avoid confusion.

22 CHAIRPERSON BENNETT: Let's avoid confusion, then.

23 COMMISSIONER PARSONS: The only confusion at this point is  
24 in my mind, which is irrelevant.

25 CHAIRPERSON BENNETT: No, no, no. No, no. Your mind is  
26 important.

27 COMMISSIONER PARSONS: I assume when we printed these  
28 regulations at one point in time, somebody decided to change the term. Because

1 I've never -- I can never recall dealing with it.

2 COMMISSIONER FRANKLIN: Madam Chair, in going back to 406  
3 on courts, that regulation is expressed in linear terms. And I'm just wondering  
4 whether we ought to include within the linear.

5 CHAIRPERSON BENNETT: Whether we ought to take courts  
6 back with 405 and 406 -- 404 and 405?

7 COMMISSIONER FRANKLIN: Maybe it belongs in both. It  
8 belongs in both. Either or.

9 CHAIRPERSON BENNETT: But then, what we're doing is giving -  
10 - I want to be not confusing to the zoning administrator. You know what I'm saying.  
11 I mean, I don't want to add to what might -- what is definitely already a very  
12 challenging job.

13 What say? Do we send it back?

14 COMMISSIONER PARSONS: Send it back?

15 CHAIRPERSON BENNETT: Well?

16 COMMISSIONER FRANKLIN: Well, we've delayed long enough  
17 on this, I think.

18 CHAIRPERSON BENNETT: Because it is expressed in linear  
19 terms, do you believe we ought to switch if inclusion?

20 COMMISSIONER FRANKLIN: Well, courts are referred to by  
21 inches per foot of height or width, and an area twice the square of the required  
22 width, et cetera, or whatever. So, it's expressed in both linear and area terms.

23 CHAIRPERSON BENNETT: But, you see, my concern is that we  
24 not put it -- list it under the zoning administrator's two and ten percent deviation. I  
25 just don't want to -- that would confuse me.

26 MS. DOBBINS: Yes.

27 COMMISSIONER FRANKLIN: Well --

28 CHAIRPERSON BENNETT: Our intention here is to be more

1 flexible than less flexible.

2 COMMISSIONER FRANKLIN: That's why I suggest doing it on  
3 both scores, either/or. On either score.

4 CHAIRPERSON BENNETT: But we're not giving the  
5 administrator any guidance on when you would apply the two percent or when you  
6 would apply the ten percent. And that I don't want to throw up there.

7 COMMISSIONER PARSONS: It's either two or ten, right?

8 CHAIRPERSON BENNETT: Right.

9 MS. DOBBINS: Not necessarily. If you look at the way the court  
10 provisions are written, they have a width provision and they have an area provision.  
11 So, I think that's what Mr. Franklin was talking about.

12 CHAIRPERSON BENNETT: Right. So, I guess what I -- all I'm  
13 saying is that if I were the zoning administrator, trying to figure out whether a court is  
14 in compliance, whether or not I get to allow certain amount of deviation. I might not -  
15 - I might be quite confused when I'm given --

16 MS. DOBBINS: Two percentages.

17 CHAIRPERSON BENNETT: Two ways of doing it.

18 COMMISSIONER FRANKLIN: No, it seems to me that we're  
19 trying to give the zoning administrator flexibility because we want him to be, or her to  
20 be, flexible. So, it seems to me if the flexibility comes from an area flexibility of two  
21 percent, or it comes from a width flexibility of ten percent, one or the other in order to  
22 be favorably inclined, that's what we're trying to --

23 MS. DOBBINS: So, you would give one. One of the two?

24 COMMISSIONER FRANKLIN: One of the two.

25 CHAIRPERSON BENNETT: Oh, I see what you're saying.

26 COMMISSIONER FRANKLIN: Whatever works. Whatever works.

27 CHAIRPERSON BENNETT: Well, then our staff can figure out  
28 how to word that.

1 MS. DOBBINS: I didn't even hear what you said. I was  
2 responding --

3 COMMISSIONER FRANKLIN: Ms. Dobbins --

4 MS. DOBBINS: I'm sorry.

5 COMMISSIONER FRANKLIN: -- with respect to 406, Ms.  
6 Dobbins, it is flexibility in the alternative. Either two percent on area --

7 MS. DOBBINS: Or ten percent on linear.

8 COMMISSIONER FRANKLIN: -- or ten percent on linear.

9 MS. DOBBINS: And that's at the zoning administrator's  
10 alternative. So you're asking me to come up with the correct wording?

11 COMMISSIONER FRANKLIN: Correct.

12 CHAIRPERSON BENNETT: That's right.

13 Did I hear a motion?

14 COMMISSIONER PARSONS: So moved.

15 COMMISSIONER FRANKLIN: Second.

16 CHAIRPERSON BENNETT: Thank you.

17 Further discussion?

18 Hearing none, all those in favor, sign by aye.

19 (Whereupon, a chorus of ayes.)

20 CHAIRPERSON BENNETT: Opposed?

21 (No response.)

22 CHAIRPERSON BENNETT: Abstentions?

23 (No response.)

24 CHAIRPERSON BENNETT: The ayes have it.

25 MS. DOBBINS: Staff will record the vote as three to zero to take  
26 final action in Zoning Commission Case No. 97-2/94-6 to adopt Zoning Commission  
27 Order No. 840 by a vote of three to zero. And I don't know who made the motion.  
28 Mr. Franklin?

1 CHAIRPERSON BENNETT: Mr. Parsons made the motion.

2 MS. DOBBINS: Mr. Parsons made the motion. Mr. Franklin

3 second. And the vote was the three to zero. Ms. Bennett, Mr. Franklin, Mr.

4 Parsons, to adopt and take final action.

5 And Ms. Kress not present, not voting.

6 CHAIRPERSON BENNETT: Thank concludes the special public

7 meeting.

8 (Whereupon, at 7:05 p.m., the commission was adjourned.)

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