

September 21, 2004

Ms. Jerrily R. Kress, FAIA  
Director, Office of Zoning  
and Zoning Advisory Committee Moderator  
Office of Zoning  
441 4<sup>th</sup> Street, NW, Suite 210-S  
Washington, DC 20001

Dear Jerrily Kress:

Advisory Neighborhood Commission 3D welcomes the opportunity to provide input on the content of the DC Zoning Regulations. We applaud the willingness of the Zoning Advisory Committee (ZAC) to review and consider areas that need to be added and others that “are deemed burdensome, obsolete, confusing or unusable” in 11 DCMR.

ANC 3D has encountered problems with areas of the Zoning Regulations that have led to confusion and will use this opportunity to recommend language that would lead to greater clarification. In 2002, the commission submitted the following proposed language changes to the Zoning Regulations and resubmits them to the ZAC for consideration:

1. In § 199.1, delete of the following provision regarding the measurement of **building height** for private residences:

*the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet.*

And also delete language in the following paragraph reading:

*the height of the building may be measured from the finished grade level at the middle of the front of the building to the ceiling of the top story*

and replace with:

In those districts in which the height of building is limited to forty feet (40) ft. **the height of the building shall be measured from the natural grade level at the middle of the front of the building to the highest point of the roof or parapet; except the height of a building on a corner lot fronting two (2) or more streets shall be measured from the natural**

**grade at the middle of the building side having the lowest elevation to the highest point of the roof or parapet.**

2. In § 400.3 delete “**in excess of that**” on the first line and insert “**not to exceed eight (8) feet and the floor area square footage shall not exceed 35 square feet**” so the new paragraph reads:

A spire, tower, dome, pinnacle, or minaret serving a an architectural embellishment, or an antenna may be erected to a height **not to exceed eight (8) feet and the exterior footprint shall not exceed 35 square feet** which this section otherwise authorizes in the district in which it is located.

and add a new definition in § 199.1 to read:

**Natural Grade – the undisturbed ground level formed without human intervention or, where the undisturbed ground level cannot be ascertained because of an existing building or structure, the undisturbed existing grade.**

ANC 3D would suggest the following additions to 11 DCMR:

In § 3199.1 add **Compliance Officer**.

In § 3205 (or where best suited), add a new section to provide guidance on the role and responsibilities as well as the authority of the Compliance Officer with regard to BZA Orders.

ANC 3D would also note that widespread confusion exists with regard to permitted lot occupancy/coverage and impermeable surface. The need for clarification – how these areas relate to one another -- is clearly indicated in the recent correspondence from Laura Gisolfi Gilbert to the Board of Zoning Adjustment re BZA Appeal No.17054. In her letter, Ms. Gilbert states:

“The Department of Consumer and Regulatory Affairs (DCRA) and the Zoning Administrator would like clarification on the Board’s decision in order to provide guidance to the Zoning Administrator and the Department in implementing the Board’s decision and related provisions of the Zoning Regulations...

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The Board's decision, with respect to surface coverage and the definitions of "impervious" and "pervious" surfaces, may have broad ramifications for permitted lot coverage in the District."

Given Ms. Gilbert's request to the Board of Zoning Adjustment for clarification of what is included in lot occupancy/coverage, ANC 3D would request clarification with regard to the relationship between lot occupancy (which is specified by a percentage), impervious surface and impervious lot coverage. The definition of "Impervious surface" would indicate that impervious surfaces should be included in total lot occupancy; however, as this is not clear, the Commission would suggest the following definitions need clarification and direction on when and how they apply.

**"Percentage of lot occupancy** – a figure that expresses that portion of a lot lying within lot lines and building lines that is occupied or that may be occupied under the provisions of the title as building area; except as provided in Waterfront District ... ."

**"Impervious surface** – an area that impedes the percolation of water into the subsoil and impedes plant growth. Impervious surfaces include the footprints of principal and accessory buildings, footprints of patios, driveways, other paved areas, tennis courts, and swimming pools, and a path or walkway that is covered by impervious material." (39 DCR 1904)

**"Impervious surface coverage** – the percentage of the land area of a lot that is covered by impervious surfaces, which percentage shall be determined by dividing the gross impervious surface area of a lot by the total area of the lot." (39 DCR 1904)

ANC 3D thanks the members of the Zoning Advisory Committee for review and consideration of its submission.

Sincerely,

Alma H. Gates  
Chair, ANC 3D