

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 508
Case No. 84-10
(Penthouse Supplement - Text Amendment)
November 3, 1986

Pursuant to notice, a public hearing was held by the Zoning Commission for the District of Columbia on May 19 and 29, 1986. At those hearing sessions, the Zoning Commission considered proposed amendments to the penthouse and antenna provisions of the District of Columbia Zoning Regulations, pursuant to Section 9101. The public hearing was conducted in accordance with the provisions of Chapter 5 of the Rules of Practice and Procedure before the Zoning Commission.

A member of the Zoning Commission sitting on the Board of Zoning Adjustment (BZA) from time to time, during the course of the Penthouse case, recommended that the Commission consider clarifying the special exception authority of the BZA to approve variations in the location, design, and other aspects of roof structures. The Commission agreed that clarification of the controls in 11 DCMR 411.11 was needed, and accordingly authorized the advertisement of proposed language in the Notice of Public Hearing regarding the antennas portion of this case.

The District of Columbia Office of Planning, by memorandum dated July 29, 1986, recommended that the proposed language be adopted. The Office of Planning is of the opinion that it is well to refer to the Board's authority to approve the "number" of roof structures in the proposed amendments. Authority to approve the number of roof structures is probably implicit in the existing language, but clarity and explicit authority are preferable. The reference to "all other aspects" provides a desirable catch-all clause to vest the BZA with the flexibility to address unforeseen types or aspects of roof structures.

No one appeared at the public hearing or of record in favor or opposition to the proposal.

A notice of proposed rulemaking was published in the D.C. Register on September 5, 1986 (33 DCR 5504). No comments were received related to the proposed amendment, as a result of the publication of the notice of proposed rulemaking.

No Advisory Neighborhood Commissions expressed issues or concerns regarding this matter.

The proposed action of the Zoning Commission to amend the Zoning Regulations was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated September 4, 1986 found that the proposed action of the Zoning Commission would neither adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission believes that the proposed amendments to the zoning Regulations are in the best interests of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan of the District of Columbia.

In consideration of the reasons set forth herein, the Zoning Commission hereby orders APPROVAL of amendments to the Zoning Regulations regarding clarification of the review authority of the Board of Zoning Adjustment to approve roof structures.

The text amendment set forth below reference the format and numbering system of the June 1986 edition of the District of Columbia Municipal Regulations (DCMR) Title 11 Zoning. The numbers contained in the brackets reference the numbering system of the Provisional Edition of the DCMR Title 11, dated August, 1983. The specific amendments to DCMR Title 11 (The Zoning Regulations) are as follows:

Modify existing Sub-section 411.11 [3308.2] regarding roof structures to read as follows:

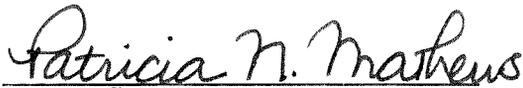
411.11 Where impracticable because of operating
[3308.2] difficulties, size of building lot, or
 other conditions relating to the building or
 surrounding area that would tend to make full
 compliance unduly restrictive, prohibitively
 costly, or unreasonable, the Board of Zoning
 Adjustment shall be empowered to approve the
 location, design, number, and all other
 aspects of such structure regulated under
 Sub-sections 411.3 through 411.6 [3308.12 and
 3308.133], even if such structures do not meet
 the normal setback requirements of Sections
 408.8 [3201.26], 530.5 [4201.22], 630.5
 [4503.41, 770.7 [5201.24], 840.3 [6201.22],
 or 930.3 [4403.3], when applicable, and to
 approve the material of enclosing
 construction used if not in accordance with

Sections 411.3 and 411.5 [3308.12]; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

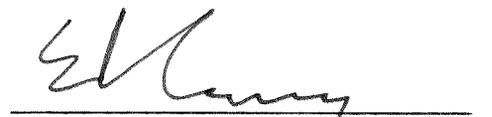
Vote of the Zoning Commission taken at the public meeting on August 4, 1986: 5-0 (Lindsley Williams, John G. Parsons, George M. White, Maybelle T. Bennett and Patricia N. Mathews to approve) .

This order was adopted by the Zoning Commission at its regular public meeting on November 3, 1986 by a vote of 5-0 (John G. Parsons, George M. White, Maybelle T. Bennett, Patricia N. Mathews and Lindsley Williams by proxy to adopt).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final upon publication in the D.C. Register, and will take effect sixty days after publication in the D.C. Register, dated 28 NOV 1986, that is, on 27 JAN 1987.



PATRICIA N. MATHEWS
Chairperson
Zoning Commission



EDWARD L. CURRY
Acting Executive Director
Zoning Secretariat

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