

*The following is a compilation of additional questions posed before and after the March 15, 2017 town hall. Answers were provided after the meeting by Joel Lawson, associate director, development review, Office of Planning, and Tarek Bolden, program analyst, zoning enforcement, Department of Consumer and Regulatory Affairs. Link locations and some additional information were added by the BCA.*

## OFFICE OF PLANNING RESPONSES

### **Q. How likely is a neighborhood to be able to create a custom zone?**

**A.** It depends on what is proposed, how much community support/opposition there is, the level of ANC support, and other factors. The process to create a custom zone is now included in the regulations themselves, [Subtitle X - General Procedures](#), Chapter 4 (page 34 of PDF).

### **Q. What is a conservation district? If our neighborhood would be interested in that, what is the possibility of becoming one?**

**A.** At present, there is no conservation district program in the District.

### **Q. Please define attached, detached, and semi-detached.**

**A.** These definitions come from [Subtitle B - Definitions, Rules of Measurement, and Use Categories](#), Chapter 1 (page 9 of PDF).

- **Building, Attached:** A building that abuts or shares walls on both side lot lines with other buildings on adjoining lots.
- **Building, Detached:** A freestanding building that does not abut any other building and where all sides of the building are surrounded by yards or open areas within the lot.
- **Building, Semi-detached:** A building that abuts or shares one (1) wall, on a side lot line, with another building on an adjoining lot and where the remaining sides of the building are surrounded by open areas or street lot lines.

### **Q. What percentage of the property can be covered by a house, parking pad, carport, patio, and garage/shed/accessory building?**

**A.** See below.

[Subtitle D - Residential House \(R\) Zones](#) provides specifics about residential zones. Burleith is in R-20 (Chapter 12, page 45 of PDF).

Definitions of “lot occupancy” and “pervious surface” appear below and come from [Subtitle B - Definitions, Rules of Measurement, and Use Categories](#), Chapter 1 (pages 24 and 27 of PDF, respectively).

- **House** — Not specifically limited. Lot occupancy in this zone is limited to 60% for attached dwellings or a place of worship, and 40% for any other structure. (Subtitle D, Chapter 12, § 1204, page 47 of PDF.)
- **Parking pad** — Not limited, although at least 20% of the lot must be “pervious surface.”

(Subtitle D, Chapter 12, § 1208, page 48 of PDF.) (Note that a parking pad could be pervious.)

- **Carport** — Not specifically limited or called out in the regulations. It would count towards overall lot occupancy if covered.
- **Patio** — Not limited, although at least 20% of the lot must be “pervious surface.” (Subtitle D Section, Chapter 12, § 1208, page 48 of PDF.) (Note that a patio could be pervious.)
- **Garage, shed, or other accessory building** — An accessory building of any kind counts towards overall lot occupancy. Otherwise, for accessory building provisions refer to Subtitle D Section, Chapter 12, § 1209, pages 48–49 of PDF.

**Lot Occupancy:** The percentage of the total area of a lot that is occupied by the total building area of all buildings and structures on the lot.

**Pervious Surface:** A surface that allows the percolation of water into the underlying soil. Pervious surfaces are required to be contained so neither sediment nor the pervious surface discharges off the site. Pervious surfaces include grass, mulched groundcover, planted areas, vegetated roofs, permeable paving as well as porches and decks erected on pier foundations that maintain the covered lot surface’s water permeability. Pervious surfaces do not include any structure or building, any porch or deck that limits the covered lot surface from absorbing water, or any outdoor stairs, on-grade surface sports court, swimming pool, artificial turf, sidewalk or patio constructed of concrete, asphalt, brick, compacted gravel or other material that impedes the infiltration of water directly into the subsurface of the lot.

**Q. What about a deck that extends from the house, but is on piers or posts or cinderblocks, not on the ground? Is this part of the percentage of property covered? And the same question regarding front porches, which are usually on some kind of posts?**

**A.** Yes, my understanding is that typically if a porch or deck is covered, or if uncovered and more than 4’ above the grade, then it would count towards lot occupancy.

**Q. What are rules regarding setbacks?**

**A.** Refer to [Subtitle D - Residential House \(R\) Zones](#), Chapter 12, § 1205 Front Setback, § 1206 Rear Yard, and § 1207 Side Yard (pages 47–48 of PDF).

**Q. I’m about to have a request for a zoning easement go to the BZA. Would you tell me how that process works?**

**A.** Please refer to the Office of Zoning [website](#) for a summary of the process or [Subtitle Y - Board of Zoning Adjustment Rules of Practice and Procedure](#). Generally, once an application is filed and accepted by the BZA, a hearing date will be scheduled, notice will be sent out to neighbors, the ANC, the council member, etc., and the applicant will post a sign on the property noting the date of the hearing. Office of Zoning will also set up an online file to which any additional information is submitted. The owner typically meets with the ANC.

A copy of the application will be referred to OP for review and recommendation. Generally 10

days before the hearing, OP will issue its report with a recommendation; we typically contact the applicant with any questions or comments or concerns prior to issuing our report.

At the hearing, the applicant presents its case; the ANC, OP, and any other agency present their reports. Neighbors and members of the public may speak in favor or opposition to the request (or may submit written comments to the record). The BZA may approve/deny the application at the end of the hearing, or may request additional information and set a date for decision making. Once a final decision is made (to approve or deny, sometimes with conditions), an Order will be drafted and published in the DC Register and that is the end of the process.

## **DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS RESPONSES**

**Q. What is the process for reporting zoning or permit regulations? How do we follow up when zoning and building violations are reported but no action is taken? What are the consequences for violating regulations?**

**A.** The process for reporting potential zoning violations is to call the Office of the Zoning Administrator at (202) 442-4576, and ask to speak with someone from the Zoning Enforcement Division. They will be the ones administering the violation inquiry and will be the point of contact through the duration of the case. The consequences for violating the zoning regulations can range from fines to tax liens on a property.

**Q. Are owners required to tear down or undo work that is not allowed or does not have the proper permits?**

**A.** If an owner builds a property without the proper permits, and it is discovered, there are a number of paths DCRA can take depending on the level of construction at the time of discovery.

- If the property has not completed construction, DCRA can issue a stop work order and bar any further construction on-site. The owner will be fined and required to submit “as-built” permits for review. If any part of the development does not fall within the regulation, the construction must be physically corrected or zoning relief sought from the Board of Zoning Adjustments (BZA). No further work can continue until the property is in compliance. If the property owners refuse to, or cannot bring the property into compliance, or has been denied relief by the BZA, only then will DCRA mandate that the illegal construction be removed.
- If the property has completed construction, DCRA can issue a substantial fine for each violation and the property must be brought into compliance with the regulations. A zoning hold is placed on the property, which prevents any further permits or certificates of occupancy from being issued. The owner is required to submit “as-built” permits for review. If any part of the development does not fall within the regulation, the construction must be physically corrected or zoning relief sought from the Board of Zoning Adjustments (BZA). If the property owners refuse to, or cannot bring the property into compliance, or has been denied relief by the BZA, only then may DCRA mandate that the illegal construction be removed.

**Q. What is the process for reporting construction during holidays?**

**A.** Construction times and regulations are questions that are best answered by DCRA's Permit Operations Division, which can be reached at (202) 442-8959.

[According to a phone conversation with division staff, report illegal construction by calling DCRA's Illegal Construction Unit, at (202) 442-STOP (7867) or call 311 during non-business hours and you will be routed to an on-duty inspector. DCRA's [website](#) notes that there is a \$2,000 fine per infraction for work without a permit; work outside the scope of a permit; and work before 7 am or after 7 pm Monday through Saturday or any time on Sunday, and on holidays.]

**Q. Who regulates fences? What is the height regulation? Once a fence of the wrong height is in place (recent and long term) and reported, what happens?**

**(Updated response below provided by DCRA on April 19, 2017.)**

**A.** Fences are not regulated by the zoning code. Submit fence questions to the Permit Operations Division at (202) 442-8959, or the DCRA Homeowner's Center (Andrew Wiley at (202) 899-3621 or Virender Bhogal at (202) 442-9517).

Seven feet is the height limit on private property. When a fence has been constructed and is not brand new, it will go to Property Maintenance Inspectors at (202) 442-9557. If it is under construction without a permit or newly finished without a permit, contact Illegal Construction at (202) 442-7867.

Repair of existing fences can be done with a postcard permit. New fences and replacement of existing fences on private property need a fence permit obtained from the Permit Center or the DCRA Homeowners Center for \$36.30. To receive a permit for a fence, applicants must submit a building plat showing the location of the fence. To obtain a building plat, go to the DC Surveyor's Office at 1100 4<sup>th</sup> ST SW, 3<sup>rd</sup> floor. It can also be obtained online at <https://dcra.dc.gov/service/get-building-plat>.

For more information on permits, visit <https://dcra.dc.gov/page/about-permits>.

**Q. Is it legal to have a party tent permanently installed on a patio?**

**A.** If the party tent is permanently installed on an existing approved deck or patio (above 4 feet in height), then the party tent is a legal addition provided that a proper permit was obtained. If the tent is installed in the ground or on a patio that is less than 4 feet in height, it counts towards lot occupancy and must be reviewed by zoning. All tent permits are routed through zoning to review for compliance.