

CITY OF NEWTON

IN BOARD OF ALDERMEN

ZONING & PLANNING COMMITTEE REPORT

MONDAY APRIL 25, 2011

Present: Ald. Johnson (Chairman), Yates, Shapiro, Lennon, Lappin, Baker, Sangiolo

Absent: Swiston

Also present: Ald. Crossley, Hess-Mahan, Linsky, Harney

City staff: Jen Molinsky (Interim Chief Planner for Long Term Planning), Seth Zeren (Chief Zoning Code Official)

Planning Board: David Banash, Doug Sweet, Leslie Burg, Joyce Moss, Scott Wolf

#17-11(2) TERRENCE P. MORRIS et. al., proposing amendments to Section 30-1 of the Zoning Ordinance which would institute a length-weighted mean approach for calculating grade plane by revising the current definition of grade plane; and by inserting a new definition of average grade containing a method for a length-weighted mean grade plane calculation. [03-30-11 @ 4:12PM]

ACTION: **HELD 7-0**
(Public Hearing closed 4-25-2011; 90 days: July 22, 2011)

NOTE: Terrence Morris, 57 Elm Road, Newton, primary docketer of both items heard this evening, introduced the item and explained to the committee that the item was docketed in response to a new interpretation of the ordinance released by the Inspectional Services Department in December of 2010 to streamline the interpretation by professionals working in the City and try to eliminate “gaming” of the ordinance. The interpretation is imperfect, though, as it outlines that the lowest point of a wall is the figure that should be taken to represent the average grade of the wall. When all the walls are averaged, the average grade turns out much lower than it should be. The accuracy of average grade is very important as it is the baseline for what height is measured from. To perfect the measurement of grade plane, Mr. Morris, along with his co-docketers, proposes employing a length-weighted mean system similar to the one used in Weston and Sudbury.

Mr. Morris introduced Joe Porter, Public Land Surveyor and co-docketer. Mr. Porter reiterated the importance of this proposed change. He stated that this system would require the documentation of calculations on a worksheet produced by ISD, making review and enforcement easier.

Seth Zeren, Zoning Code Official, presented to the Committee (*presentation is attached to the end of this report*). He explained the length weighted mean system in detail: each wall is divided into segments (segments must be greater than 6’ in length) based on the general slope/grade that they are constructed on; the average grade of the segment is determined by calculating the lowest and highest point of the segment; each

segment is then weighted by multiplying the average grade by the length; the segments are then averaged together to produce the total average grade plane. To mitigate the potential issue of “berming” (artificially increasing the ground level around a building), the lowest point within 6 feet of the segment will be used for the calculation. The length weighted mean method will allow for a true measure of grade plane and will eliminate the confusion and misinterpretation that ISD has had to manage with the old definition.

Mr Zeren explained the analysis of the impact of this change, stating that the new method would yield grades 1-2 feet higher than the current interpretation yields. Prior to the 2010 interpretation, grade plane was being skewed too high, but with the release of the 2010 interpretation grade plane was being driven too low, so this 1-2 foot increase over what the current interpretation yields is spot-on. The Planning Department and ISD both recognize that this new proposal is more consistent and verifiable and more accurately representative of true grade plane.

Mr. Zeren explained that there would be a revised definition of grade plane as well as a new definition of average grade added into the ordinance. He concluded the presentation by showing the diagrams that will be included in the ordinance for clarity.

Ald. Johnson opened the floor to the Committee members for discussion and questions (Mr. Zeren and the Planning Department will provide answers to these questions in their May 6th memo so that a discussion can be had at the working session on May 9th). Ald. Baker voiced his concern, stating that he'd like more elaboration on the impact on stories. Joyce Moss questioned why the specific cut off of 6 ft for segments instead of using a fraction of the building. She believes that being so specific may cause problems. Mr. Zeren stated that he , in consultation with ISD staff, felt that 6ft was an appropriate number and that using a fraction would create more confusion and difficulty than is necessary.

Ald. Johnson opened the public hearing. Mr. Morris, the petitioner, was the only person who spoke. He asked Mr. Zeren about the 6 ft or less exclusion since that isn't an element that Mr. Morris included in the original proposal. Mr. Morris wanted to know how the less than 6 ft long pieces would be dealt with; if they would be treated as though they aren't there at all. Mr. Zeren confirmed that, yes, pieces less than 6' in length would be completely excluded from the calculation. After this exchange, Ald. Johnson closed the public hearing on the item.

Ald. Lappin moved to hold the item, which carried unanimously. The item will be discussed at the the May 9th meeting of the Zoning and Planning Committee.

#65-11(2) TERRENCE P. MORRIS & JOSEPH PORTER proposing amendments to the Zoning Ordinance to revise the definition of “height” in Section 30-1 so as to calculate building height as the distance from grade plane to the peak of the roof; to revise clause (b) in the definition of “height, contextual” in Section 30-1 (relating to Section 30-15(s) Planned Multi-Use Business Developments) so as to calculate vertical distance using the peak of the roof; to increase the height limits in residential districts contained in Section 30-15, Density/Dimensional Controls, Tables 1 and 4; to increase the height limit contained in Section 30-15(m) for accessory structures; and to add a provision in Section 30- 15(m) to allow accessory

structure height limits to be waived by special permit. [03-30-11 @ 4:12PM]

ACTION: **HELD 7-0**
(Public hearing closed 4-25-2011; 90 days: July 22, 2011)

NOTE: Mr. Morris introduced this item. He explained his proposal is to change the definition of height so that height is measured to the highest peak of a structure instead of to the cross section of the wall plate and roof plane. As it is now, the determination of the point at which height is measured to has been skewed because of the imprecise process of determining the intersecting point. In conjunction with this, some years ago the restriction on building height went from 36ft to 30ft; Mr. Morris believes that allowed height should be restored to 36ft. The third aspect of this proposal is to allow for accessory apartments to get relief from the height restriction through a special permit instead of a variance, as is currently the process; this is the only provision in the ordinance that requires a variance. Mr. Morris also proposes raising the accessory structure height limit to 24ft to parallel the proposed 6ft increase to the height limit for main structures. Mr. Morris also provided and cited an email from Atty. Jason Rosenberg whom wrote in support of the change, but disagrees with the Planning Department's opposition to allowing accessory structures relief from height restrictions through special permit.

Ald. Crossley inquired about how changing the definition of height might affect the pitch of roofs. She also questioned what the intent of the height limit is and, if there isn't a clear intent, if we could make different accommodations for different neighborhoods.

John Lojek, Commissioner of ISD, supports the petition to change the definition of height; he believes it makes sense to measure to an absolute point; this clarifies the point you are measuring to especially since there are a variety of roof types and figuring the point to measure to can become complicated.

Mr. Zeren then went through his presentation on the item, which is attached to the end of this report. He covered exceptions to the rules of height (slide 4), the current problems with the height definition (slide 5), the history of height definition (slide 6). Before getting into the crux of the petitioners' proposal which he explained to have three parts (slide 7):

- 1) To change the definition so that height is measured to the peak of the roofline
- 2) To change the allowed height to 36ft (only for MR and SR districts)
- 3) To change the relief process for accessory structures

Mr. Zeren gave his analysis of the proposal based on research from surrounding cities and towns. Through that research he concluded that we are the only community in the area that doesn't measure height to the highest roof point. He also concluded that the vast majority of surrounding towns impose a height limit of 35ft, though the town of Weston allows 37ft for peaked roofs. Regarding accessory structures, Mr. Zeren and the Planning Department see an increase of 6ft to their limit as unnecessary and instead suggest a maximum of 22ft. The proposal to allow special relief for accessory structures is one that Mr. Zeren and the Planning Department also see as unnecessary. There isn't any precedence in the surrounding area to allow accessory structures relief through

special permit and they see no adequate rationale for allowing this; it is not believed that this change would benefit Newton.

Mr. Zeren concluded by stating that he and his department recommend the adoption of the definition of height as outlined in the planning memo in order to measure to the highest point of a roof as well as to increase the allowed roof height in multi and single residence districts (also attached to this report). Mr. Zeren and the department do not recommend changing the relief process for accessory structures.

Ald. Johnson opened the floor to questions. Ald. Yates inquired why the language “to the highest roof surface” would be used in the definition instead of “peak” or “point”. Mr. Zeren explained that this term is a good catch all since not all roofs have clearly defined peaks. Ald. Yates questioned whether there is a generally agreed upon definition of “surface” and asked Commissioner Lojek what his preference would be, to which Commissioner Lojek stated that he would suggest using the term “highest point”.

Ald. Baker asked Mr. Zeren to look into what the impact on institutional structures may be. He also inquired about exceptions to the height limit and whether that list should be re-examined. Mr. Zeren will include responses to these inquiries in the May 6th planning memo.

Ald. Johnson opened the public hearing. Mr. Morris, co-docketer of the petition, was the only speaker. He reiterated that he believes it is important to allow special permit relief for accessory structures and that it is an aberration to have a restriction that requires a variance. After his comment, Ald. Johnson closed the public hearing.

Ald. Lappin moved to hold the item, which carried unanimously. The item will be discussed at the the May 9th meeting of the Zoning and Planning Committee.

#96-11 ECONOMIC DEVELOPMENT COMMISSION submitting its annual report of activities undertaken in 2010 and recommendations for improving the economic condition and development of the city. [03-28-11 @3:06PM]

ACTION: **APPROVED 6-0 (Baker not voting)**

NOTE: Daphne Collins, Chair of the Economic Development Commission, presented the EDC’s annual report (*the annual report is attached to the end of this report*). The Commission has going over all economic development documents and developed short term and long term goals.

One of the major goals that the EDC has is to make the City more responsive to the business community and to communicate to businesses that this is a collaborative process and not an onerous one. She sees the EDC as being a body that can support businesses and a body that is looking at projects from strictly an economic development perspective. Ms. Collins explained that guidelines have been developed to create a clear process for meeting with the EDC. This is now a set process that facilitates productive meetings with businesses where before it was much less organized. A key player in keeping the commission running well is having a staff person assigned to them: Amanda Stout is now the staff person working with the Commission. Having a point person for businesses to communicate with makes a huge difference in the quality of support that the EDC provides.

Ms. Collins shared other short term and long term goals, which include improving Newton's bio-ready status (currently Newton has a bronze status which is a lower rating; having a low rating keeps the City from being matched up with business that are in communication with the Commonwealth), investigating regional partnerships with abutting communities, and looking into best practices. Furthermore, it is the intent of the EDC to continue their involvement with committees and task forces related to ongoing city projects such as the Newton Center Task Force study and the Mixed Use Task Force.

Ald. Johnson opened the meeting to questions from the Committee. Ald. Shapiro inquired about how much of Amanda Stout's role is specifically with the City and how much she acts as a liaison to the Chamber of Commerce. He requested that Ms. Collins address this with Candace Havens. Ald. Shapiro also asked how much collaboration is going on between the EDC and the Chamber of Commerce. Ms. Collins assured him that collaboration is a focus but that there's always room for improvement. Ald. Johnson suggested that Ald. Shapiro request that the Chamber of Commerce reach out to the EDC as well.

Ald. Yates asked whether the EDC has discussed the possibility of a foreign trade subzone in Newton. Ms. Collins confirmed that yes this has been brought up to the EDC by Ald. Linsky.

After this brief discussion there was a motion to approve the item which carried unanimously.

#30-10(2) POST AUDIT & OVERSIGHT COMMITTEE requesting a discussion with the Planning & Development Department relative to the governance process of the Newton Community Development Authority (NCDA), including recommendations and potential changes to the NCDA.
[01/26/09 @ 9:00 PM]

ACTION: **REFERRED TO POST AUDIT 6-0 (Baker not voting)**

NOTE: The motion was made to refer the item to the Post Audit Committee. Without hesitation the Committee voted unanimously approved the motion.

#114-10 ALD. YATES AND RICE requesting reports from the Conservation Commission and Board of Survey on compliance with condition of permits given to allow the development of the Laura Road subdivision.
[04/07/10 @ 10:59 PM]

ACTION: **REFERRED TO POST AUDIT 6-0 (Baker not voting)**

NOTE: The motion was made to refer the item to the Post Audit Committee. Without hesitation the Committee voted unanimously approved the motion.

Respectfully Submitted,

Marcia Johnson, Chairman

Department of Planning and Development

1

Public Hearing: Revisions to Grade Plane Definition

Petition #17-11. Terrence P. Morris, Joseph Porter, Bruce Bradford, George Collins, Verne T. Porter, Jr., and Michael Peirce, proposing an amendment to the zoning ordinance for the purpose of changing the definition of “grade plane” and adding a new definition of “average grade.”

Grade Plane Definition

2

Figure 1.

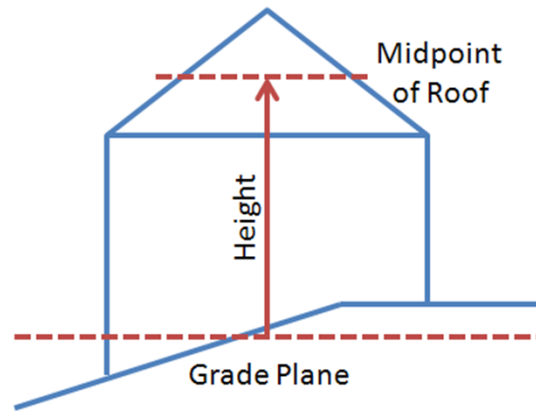
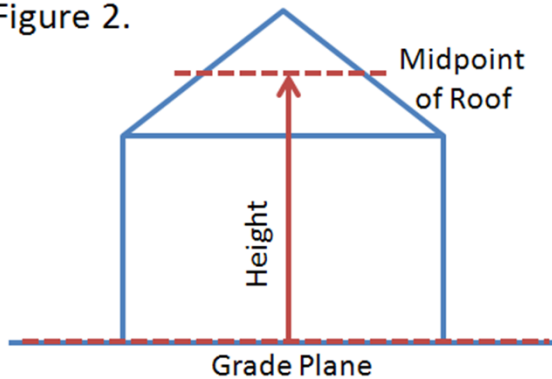


Figure 2.



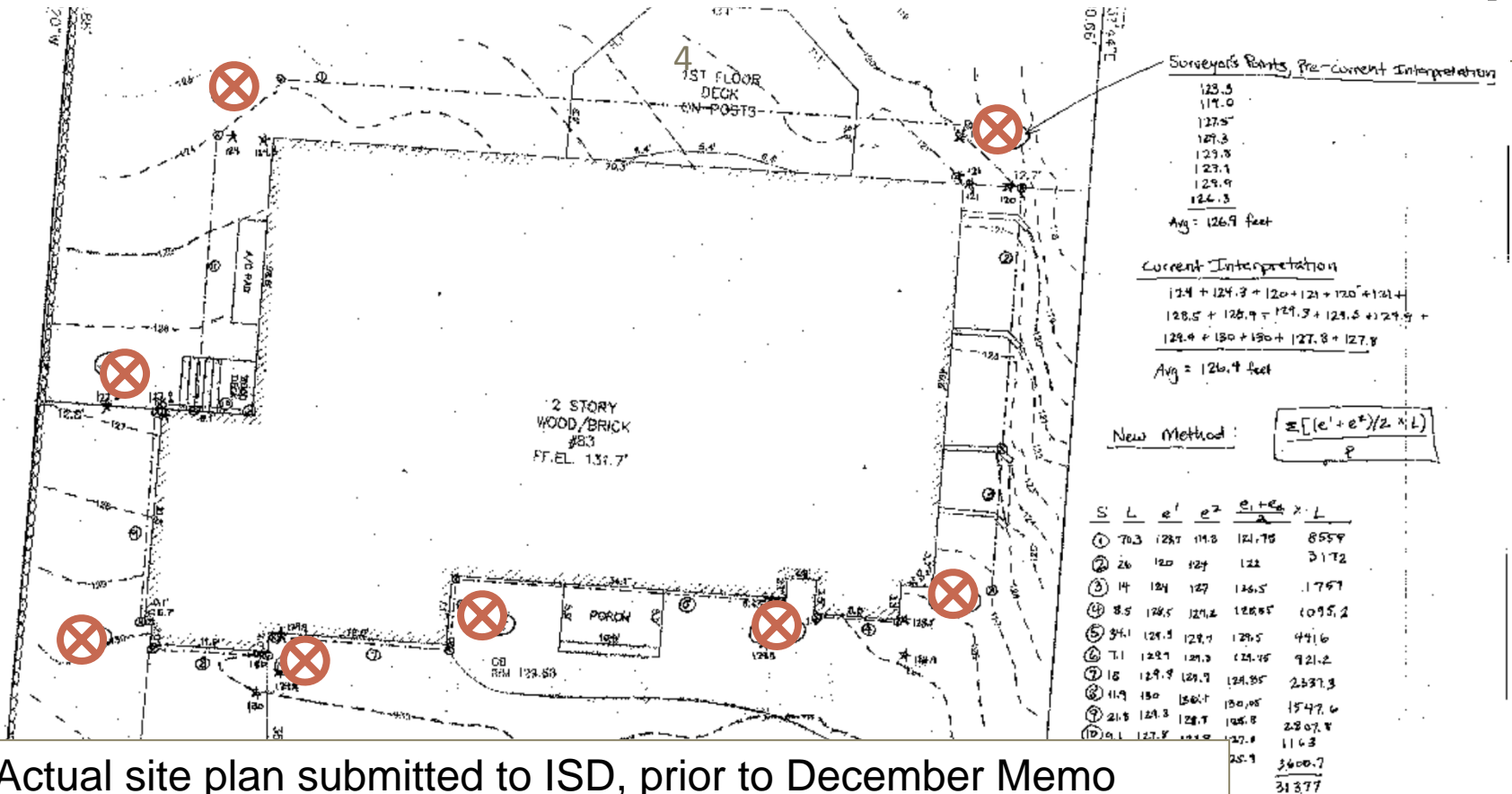
- “The average of finished ground level adjoining the building”
- Benchmark from which height is measured

Problems with Grade Plane Definition

3

- **The Inspectional Services Department has observed numerous problems with the definition of “grade plane” over the years:**
 - The calculation is confusing
 - Surveyors had their own inconsistent interpretations of the definition
 - Their reported grade planes were hard to verify
 - Can be interpreted to produce a grade plane that is too high
- **ISD issued detailed guidance in December 2010 to standardize calculation of grade plane**

Specific Example of Grade Plane Problems



- Actual site plan submitted to ISD, prior to December Memo
- Lot slopes down from bottom to top
- Red marks are the surveyors points averaged to produce “grade plane”
- Produces grade 1.1 feet higher than under proposed method

Continuing Problems with Grade Plane Definition

5

- **Petition #17-11 was filed in response the ISD memo of December 2010**
 - Two page memo clarified calculation and set clear standard
- **Method under the current definition:**
 - Two points are taken from each wall (at the lowest point)
 - Each point is averaged together to calculate the “grade plane”
 - But now the grade plane calculation may result in a grade plane that is **too high**

Example on a Sloping Lot

6

Figure 4a.

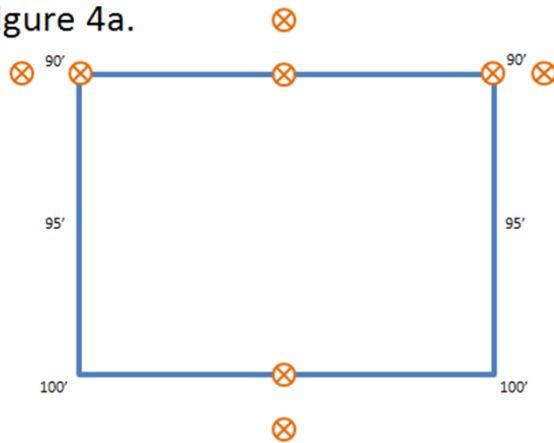
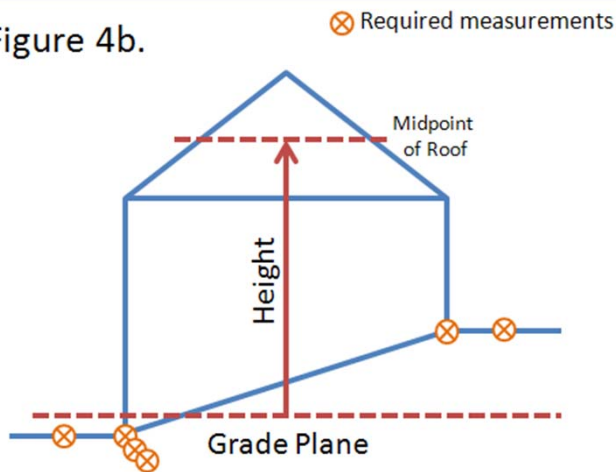


Figure 4b.



Example:

- Lot slopes down from bottom to top
- Averaging these points produces a grade plane of 92.5 feet
- But, common sense average of all the elevations would be 95 feet

Summary:

- Confusing and difficult to verify
- When manipulated, can be too high
- When calculated correctly, can be too low
- Does not yield a true “average of finished ground level”

Text of Current Definition

7

Text of current definition and summary of current interpretation (in **bold**):

- “*Grade Plane*: A reference plane for a building or structure as a whole (**that is, a plane that encircles the building or structure**) representing the average of finished ground level adjoining the building or structure at all exterior walls (**at least one measurement must be taken at each exterior wall**). In calculating said reference plane, the elevation of each point used to calculate said average shall be determined by using the lowest elevation of finished ground level with in the area (**wall**) immediately adjoining the building or structure (**flush against the wall**) and either the lot line or a point six (6) feet (**perpendicular**) from the building or structure, whichever is closer to the building or structure, as illustrated in the diagrams below.”

History of Grade Plane Definition

8

- First defined in 1997, through Ordinance No. V-111
 - The definition in 1997 read:
 - ✦ “*Grade plane*: A reference plane representing the average of finished ground level adjoining the building at all exterior walls”
 - Created to serve as a baseline for a revised height definition
 - In response to concerns over the loss of historic homes to out-of-scale development
- Revised in 1999 through Ordinance Number V-247 to the current definition
 - Provided a *method* for calculating grade plane

Proposal: Length-Weighted Mean Method

9

Length-weighted mean method summary:

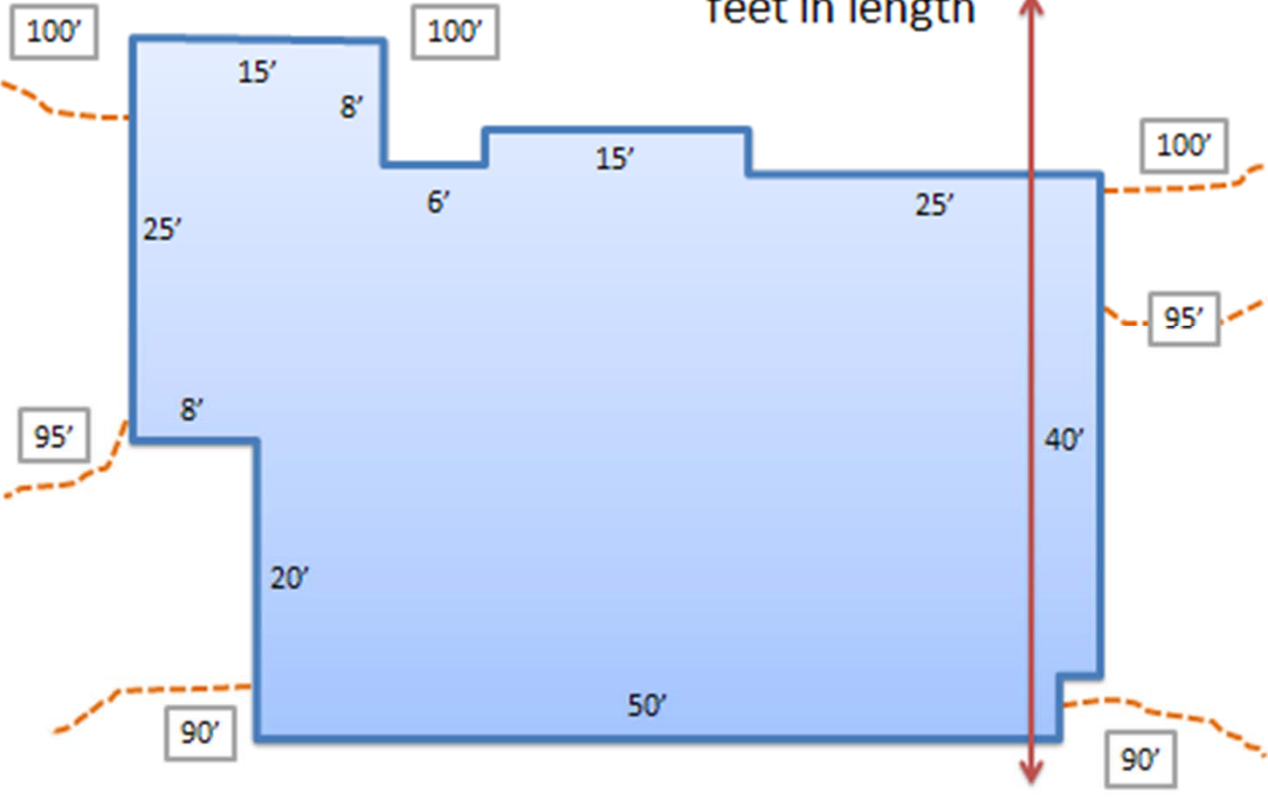
- Divide each wall into segments of consistent grade or slope
- Determine average grade for each segment
- Weight each segment by multiplying the average grade by the length
 - (thus a wall that is 40 feet long would “count” four times as much as another wall that is only 10 feet long)
- Average together all segments together

$$\text{Equation: } \frac{\sum[(e1 + e2)/2 \times L]}{P}$$

Example: Plan View

Figure 7.

Example house showing all walls greater than six feet in length

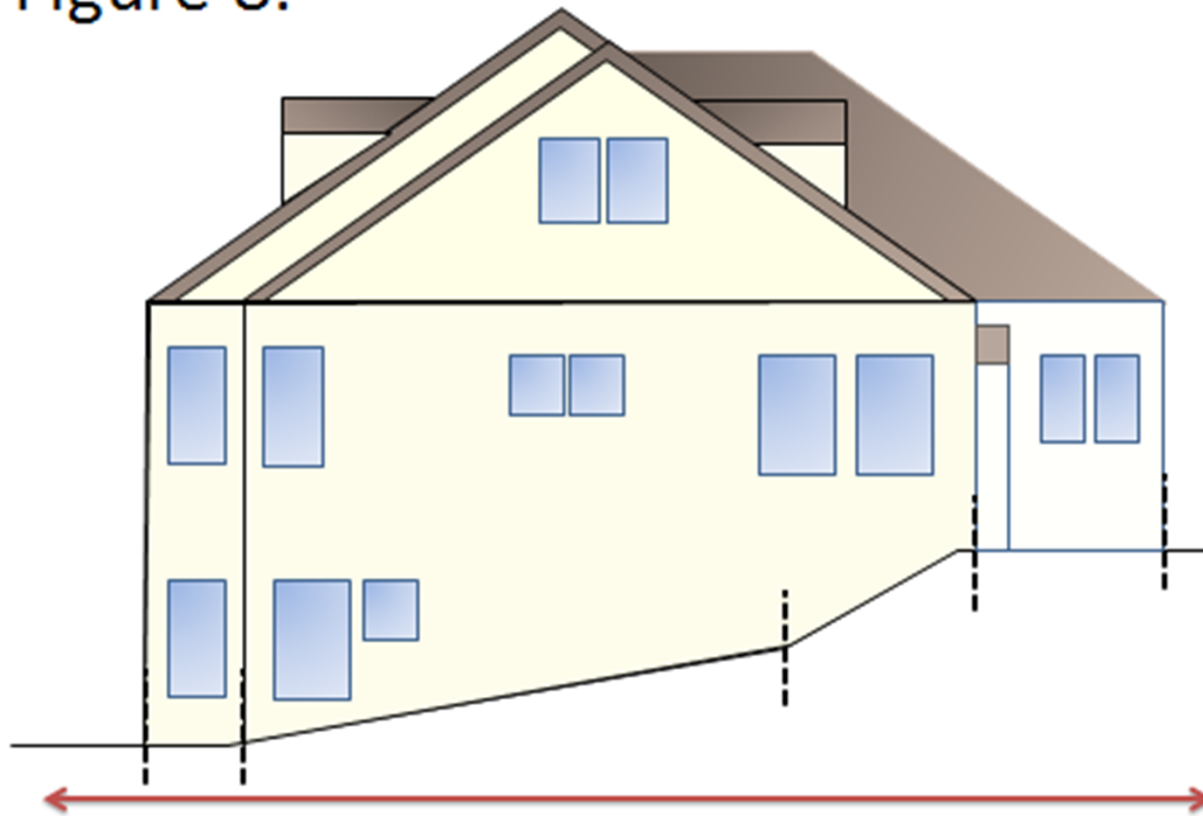


Example: Section View

11

Figure 8.

Cross-section of example

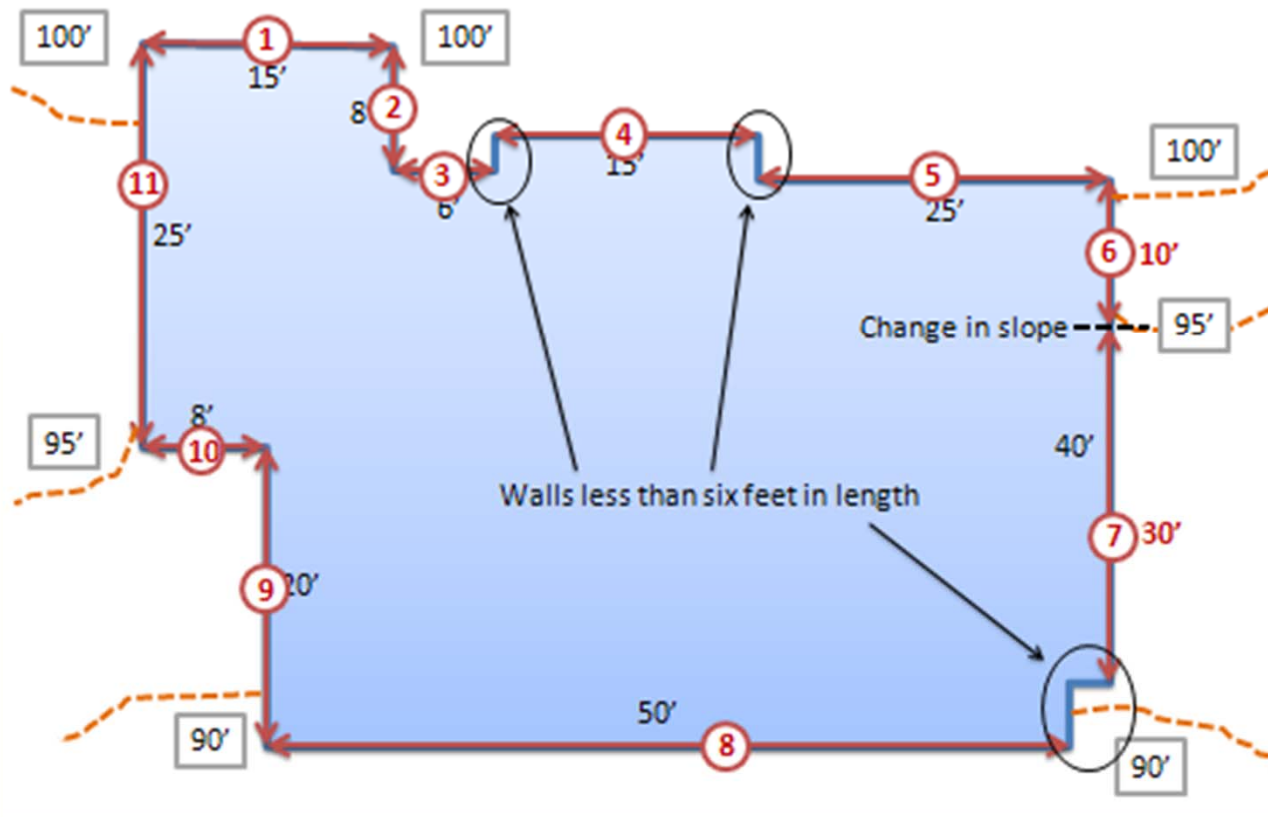


Example: Divide Walls into Segments

12

Figure 9.

Segments identified and numbered



Example: Average and Weight Segments

Figure 10.

**Length Weighted
Mean sample
calculation:**

$$\frac{\sum[(e1 + e2) / 2 \times L]}{P}$$



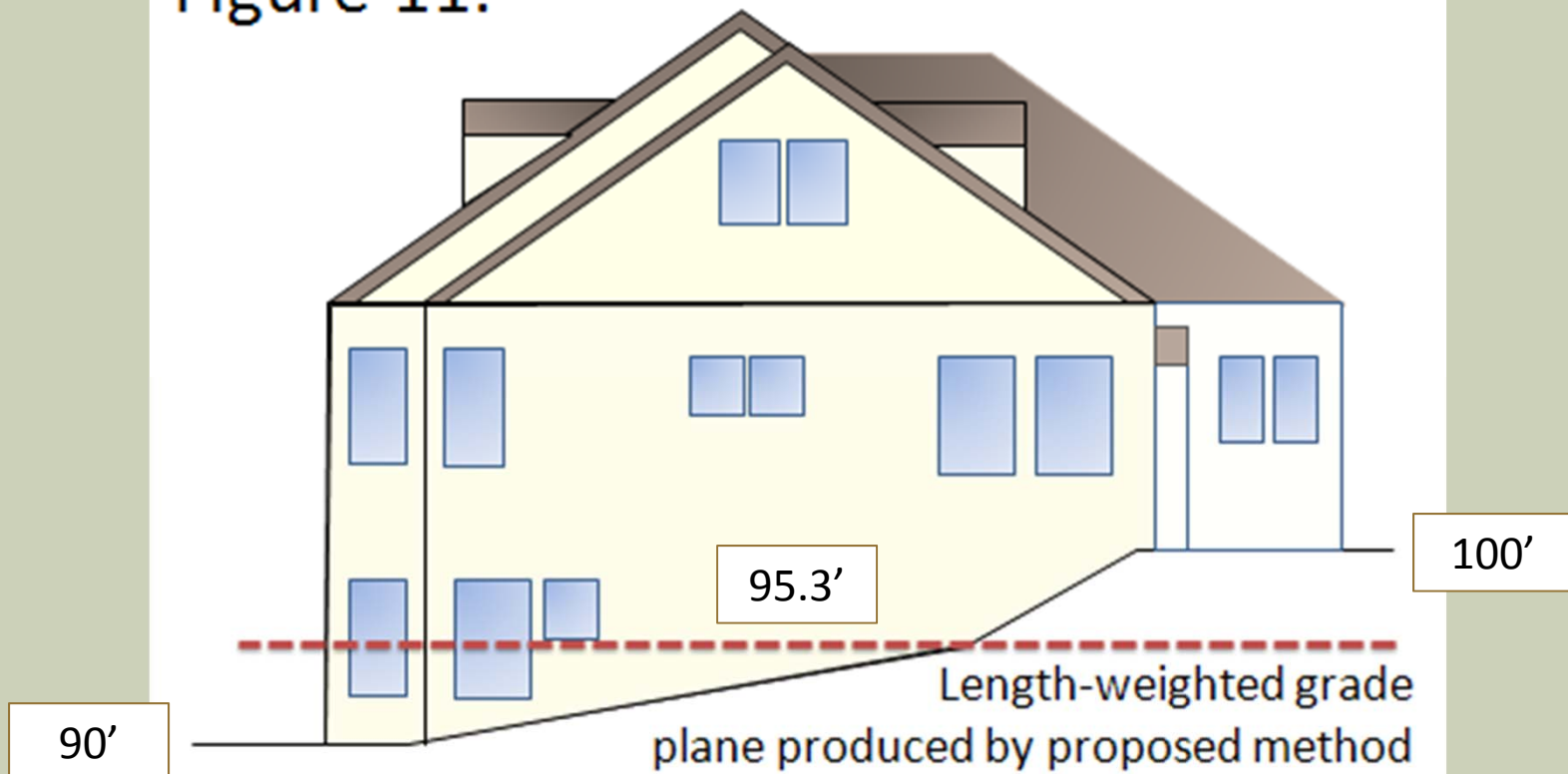
Segment	L	e1	e2	$\frac{e1+e2}{2}$	xL
1	15	100	100	100	1,500
2	8	100	100	100	800
3	6	100	100	100	600
4	15	100	100	100	1,500
5	25	100	100	100	2,500
6	10	100	95	97.5	975
7	30	95	90	92.5	2,775
8	50	90	90	90	4,500
9	20	90	95	92.5	1,850
10	8	95	95	95	760
11	25	95	100	97.5	2,438
Total	212				20,198

Grade Plane under proposed method: $\frac{20,198}{212} = 95.3'$

Example: Final Grade Plane

14

Figure 11.

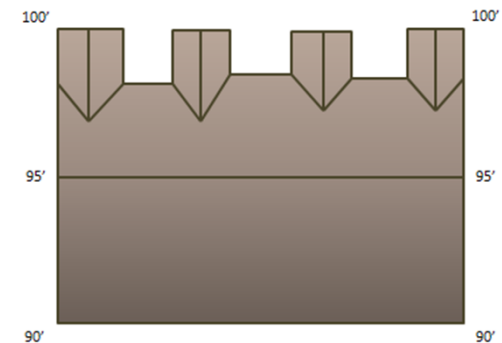


Analysis: Merits

15

- Achieves a fairer and more representative “average of finished ground level”
 - More representative for buildings on lots with varying grades
 - ✦ e.g. homes with basement garages or sloping lots
 - Easier to verify measurements and calculations
- What could go wrong?
 - Using “teeth” to increase segment length at higher elevation (see Figure 6.)
 - ✦ Only count segments along walls of greater than six feet
 - “Berming” around structure to increase grade plane
 - ✦ Use the lowest elevation within six feet of the ends of each segment to calculate the average grade of the segment

Figure 6.



Analysis: Comparisons

16

- **Comparisons with neighboring communities:**
 - We looked at the ordinances of Sudbury, Weston, Brookline, Needham, Wellesley, Waltham and Watertown
 - Sudbury and Weston use the length-weighted mean approach and reported that the method is clear and consistent and reduces “gaming” of the system
 - The other communities use methods that have many of the same problems as Newton’s current definition

Analysis: Impacts

17

- We tested both the current method and the proposed method:
 - On a flat lot – both methods produced the same grade plane
 - For both sloping grade and garage-under examples – the proposed method yields more representative averages of grade, which are one to two feet higher than those calculated under current definition
 - Current method has no mechanism for dealing with “teeth”
- New proposal:
 - More consistent and verifiable
 - More likely to represent the “average of finished ground level”
 - Small chance that some mostly buried ground levels would count as basements, but overall height is still limited

Recommended Changes to Proposed Language

18

- *Grade Plane:* A horizontal reference plane for a building as a whole, passing through the elevation of the finished Average Grade around the perimeter of a building, from which building height is determined.”
- *Grade, Average:* The average of the grade elevations around the perimeter of a building, as determined by the length-weighted mean formula below. All walls of length greater than six feet shall be included in segments of consistent grade or slope.

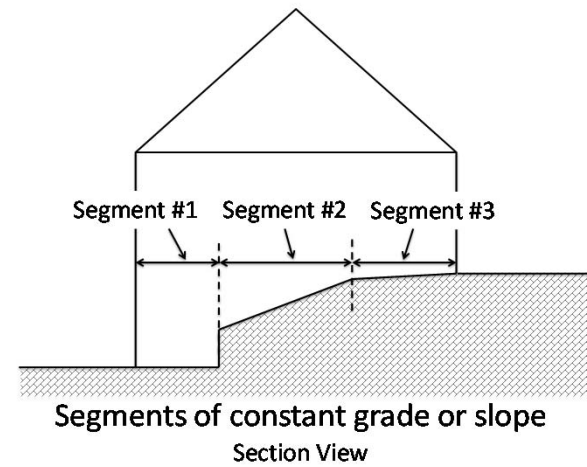
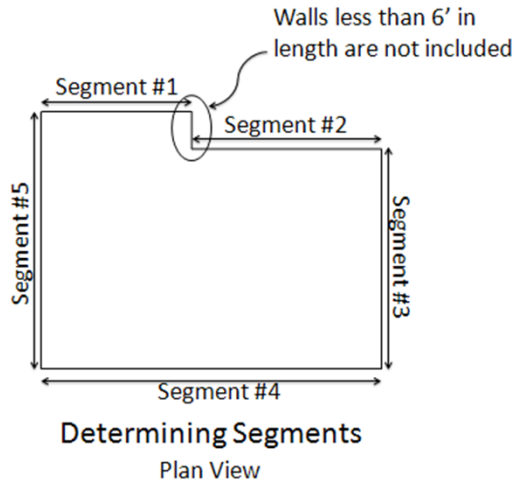
$$\frac{\sum[(e1 + e2)/2 \times L]}{P}$$

Where:

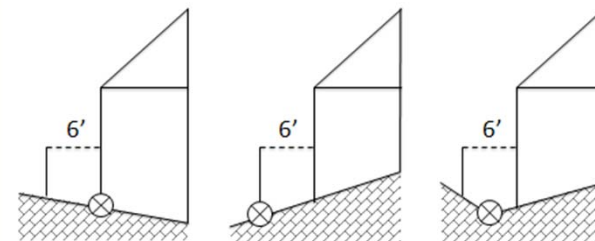
- ✦ Σ sums the length-weighted means of all segments
- ✦ e1 and e2 are the elevations of the finished ground level at the respective ends of each segment, determined as the lowest point at each end of the segment within six feet of the foundation or the lot line, whichever is closer
- ✦ L is the corresponding horizontal length of the segment
- ✦ P is the total horizontal length of all segments

Proposed New Diagrams

19



Segment ends use lowest elevation within 6'
Plan View



Segment ends use lowest elevation within 6'
View along segment

Summary

20

- Planning Department recommends the proposed changes to the definition of Grade Plane to ensure more consistent, verifiable measurement of true average grade.

#65-11 & 17-11

Rebecca Smith

Date sent: Mon, 25 Apr 2011 18:08:11 -0400
 Subject: # 65-11 and #17-11
 From: Jason Rosenberg <rosenberg@rfglawyers.com>
 To: <rsmith@newtonma.gov>
 Copies to: <mjohnson@newtonma.gov>, Joe Porter <vtp@vtpassociates.com>, Candace Havens <chavens@newtonma.gov>, Jennifer Molinsky <jmolinsky@newtonma.gov>, John Lojek <jlojek@newtonma.gov>, "G. Michael Peirce" <mpeirce@gmpeircelaw.com>, Seth Zeren <szeren@newtonma.gov>, eve tapper <etapper@newtonma.gov>, Jennifer Molinsky <jmolinsky@newtonma.gov>

11 APR 25 1P 10:38
 CITIZEN CLERK
 NEWTON, MA. 02159

Please convey my apologies to the Zoning and Planning Committee in that I am unable to attend the public hearings on these two matters.

Please distribute a copy of this email to Chairman Johnson, Committee members, and appropriate interested parties, and into the official records.

#65-11

I am in support of the Planning Department's recommendation for adoption of this new definition. It is far more workable, fairer, less confusing, and less likely to be "manipulated" to create heights in excess of what is supposed to be allowed.

I, however, disagree with one point, i.e., the negative recommendation as to creating a special permit for a waiver allowing greater height. Variances are impossible, I repeat Impossible to obtain if the Board of Appeals adheres to the 4 criteria in the statute. The Board in Newton follows the criteria and court decisions more often than has any previous Board. This means that there is really no remedy for relief where unique conditions which do not adversely impact the public and do not derogate from the intent of the height provision exist. Note that the 4th condition, "hardship", is absent from my statement because it is "hardship" (as defined by statute) which 999 out of 1000 times precludes a variance from being lawfully granted.

If the Board of Aldermen retained a limited power to grant waivers which waiver did not exceed a given percentage of the height limitation, and for which findings had to be made that there were unique circumstances which do not adversely impact the public and do not derogate from the intent of the height provision, then there would be ample protection and would place appropriate limits on such a power- but at least some relief to the homeowner would be available!

Please feel free to get back to me if you have any questions from me.

#17-11

Again I am in support of the recommendation to change the grade plane definition. I believe the proposal eliminates the confusion and opportunities to intentionally depart from the provision.

I would also suggest taking a closer look at Brookline's approach which also includes the status of

adjoining lots and relative relationship to the street grade. I am not indicating that you must adopt those to make this workable, but only that there may be some benefit.

Again, please feel free to get back to me if you have any questions from me.

Very truly yours,
Jason A. Rosenberg

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Department of Planning and Development

1

Public Hearing: Revisions to Height Definition

Petition #65-11. Terrence P. Morris and Joseph Porter proposing an amendment to the zoning ordinance to change the definition of “height” with a concomitant increase in the height to the pre-1997 limits; to make height exceptions in accessory buildings subject to special permit rather than a variance.”

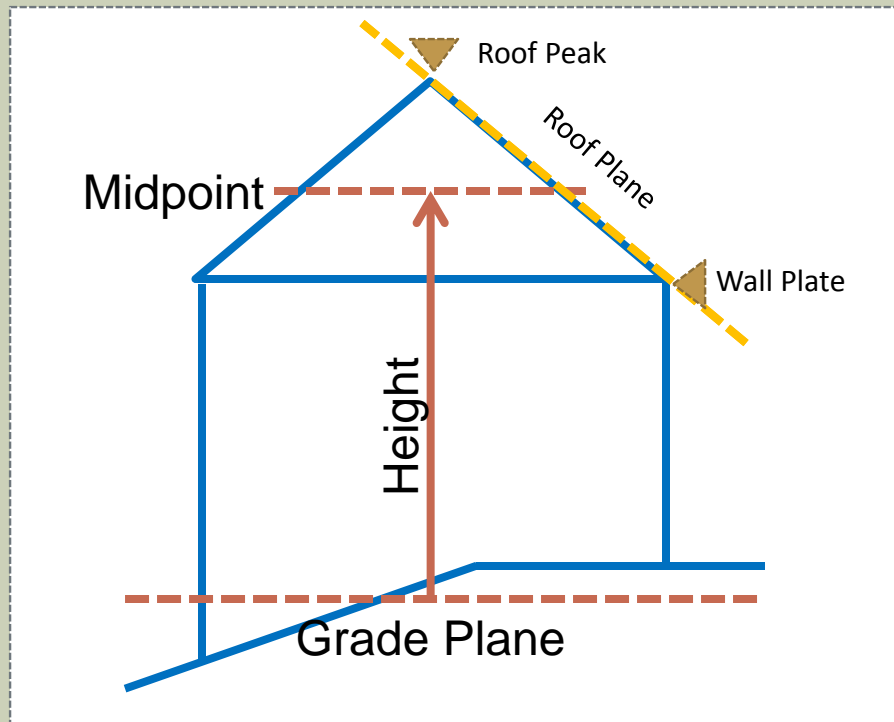
Height Definition

2

- *“Section 30-1 Height:* The vertical distance between the elevations of the following: (a) the average grade plane and (b) the midpoint between the highest point of the ridge of the main building roof and the line formed by the intersection of the top of the main building wall plate and the main roof plane. Not included in such measurements are 1) cornices which do not extend more than five (5) feet above the roof line; 2) chimneys, vents, ventilators and enclosures for machinery of elevators which do not exceed fifteen (15) feet in height above the roof line; 3) enclosures for tanks which do not exceed twenty (20) feet in height above the roof line and do not exceed in aggregate area ten (10) per cent of the area of the roof; and 4) towers, spires, domes and ornamental features.”

Height Definition

3

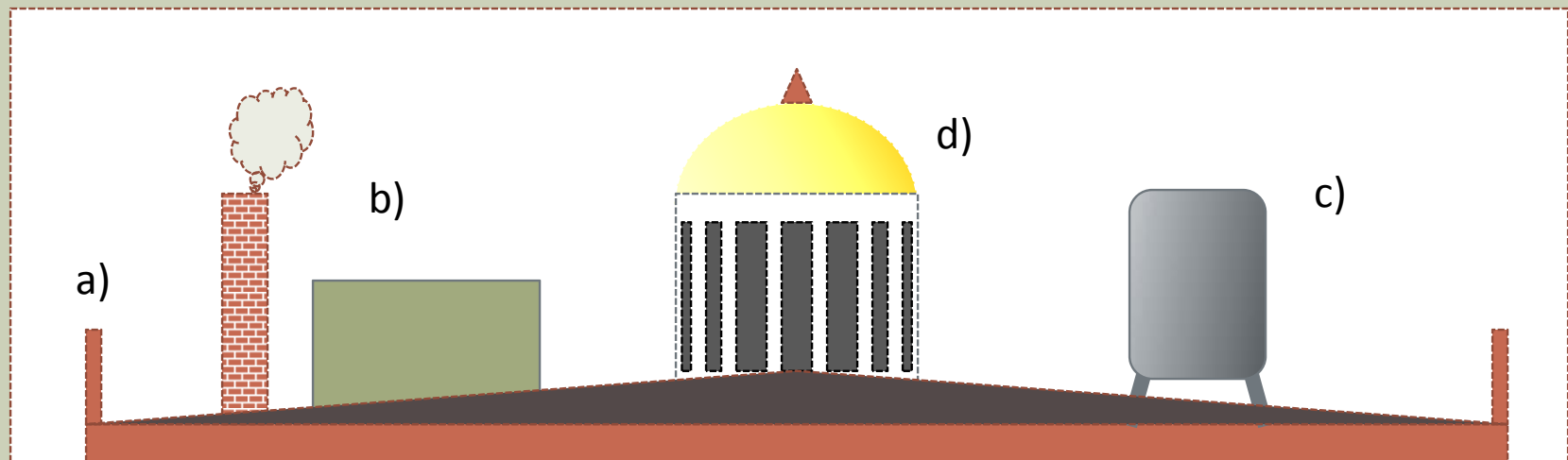


- Height is measured from the Grade Plane to the midpoint between the roof peak and the intersection of the wall plate and roof plane
- Change would affect all structures in the City, including accessory structures

Existing Exceptions to Height Measurement

4

- There are a number of exceptions to the current calculation of height:
 - a) Cornices which do not extend more than five (5) feet above the roof line
 - b) Chimneys, vents, ventilators and enclosures for machinery of elevators which do not exceed fifteen (15) feet in height above the roof line
 - c) Enclosures for tanks which do not exceed twenty (20) feet in height above the roof line and do not exceed in aggregate area ten (10) per cent of the area of the roof
 - d) Towers, spires, domes and ornamental features



Summary of Problems With Current Definition

5

- Term “wall plate” likely a scrivener’s error; intended term was “wall plane”
 - Term contributes to confusion and makes height hard to verify
- Does not actually regulate the absolute height of a structure
 - The peak height of a conforming structure can vary considerably depending on the shape of the roof
 - Buildings with steeply pitched roofs may have a taller peak height than those with flatter roofs
 - Can be manipulated to increase peak height

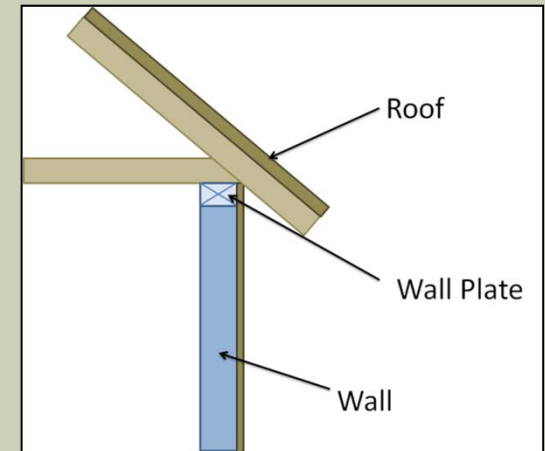
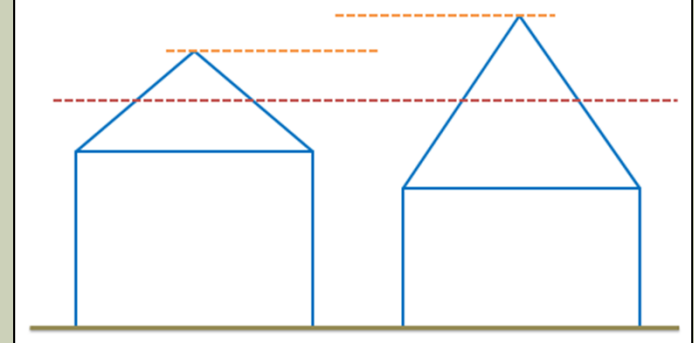


Figure 4.

Identical “Height”



History of Height Definition

6

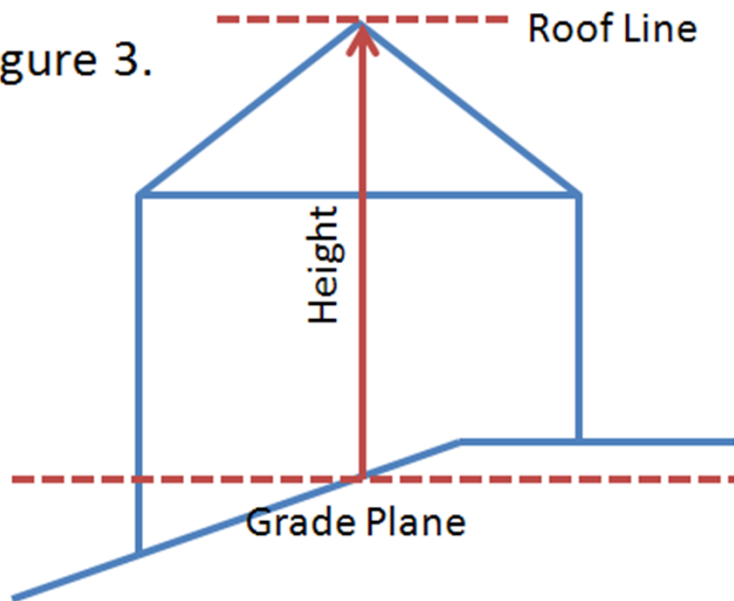
- In 1997, Ordinance V-111 revised the definition of height
 - Measure to the “highest roof surface” and lowered the allowed height to 30 feet (from 36 feet)
 - Intended to reduce development potential and protect existing structures
- In 1999, Ordinance V-232 created our current method
 - Measure from the grade plane to the midpoint between the peak and the intersection of the roof and wall planes
 - Intended to encourage pitched-roof designs
- In 2008, Ordinance Z-20 made one minor adjustment to the current definition
 - Replaced the phrase “grade plane” in the definition of height with the phrase “average grade plane”
 - Ordinance Z-20 was primarily concerned with dormers

Proposal: In Three Parts

7

Petition #65-11 proposes three separate revisions to the zoning ordinance:

Figure 3.



- I. Change the definition of height in Section 30-1 to measure from Grade Plan to “peak of the roof line”
- II. Change the height limits of 30 feet in Section 30-15, Density/ Dimensional Regulations - Table 1 to the pre-1997 limit of 36 feet
- III. Allow height limits for accessory structures to be waived by special permit rather than by variance

Proposed Revised Definition

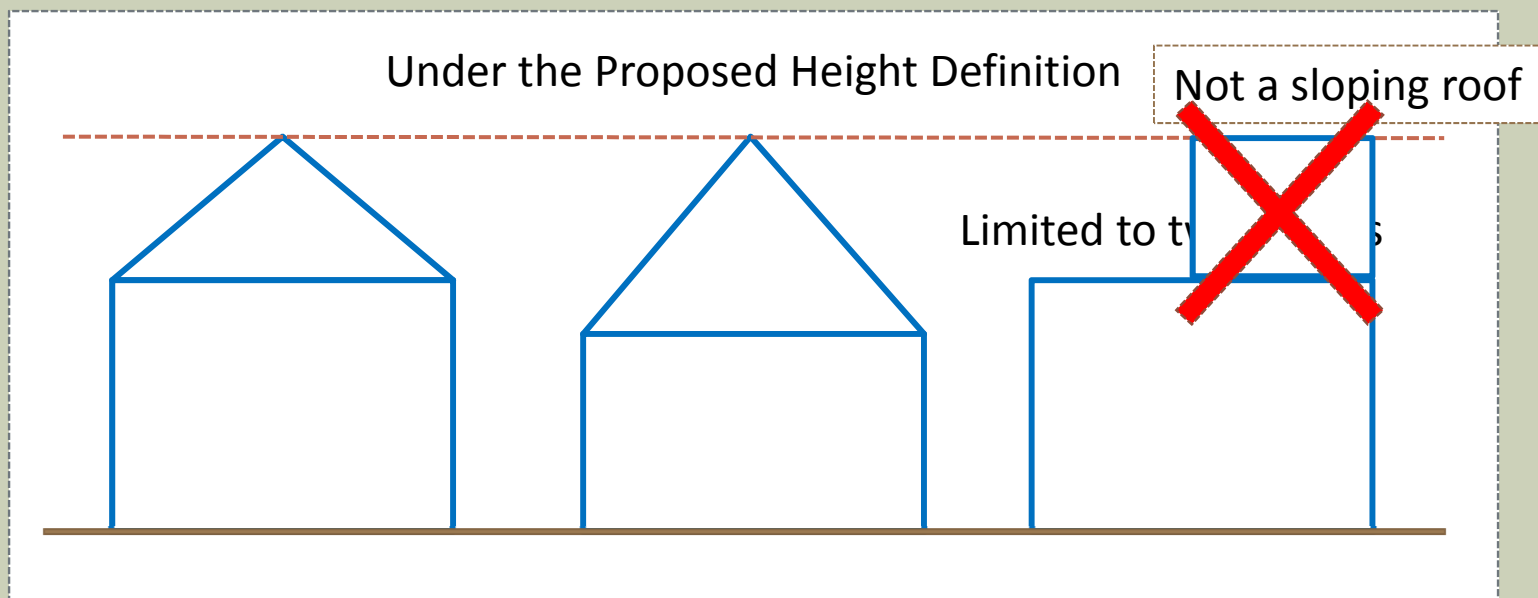
8

- “*Height*: The vertical distance between the elevations of the following: (a) the average grade plane and (b) ~~the midpoint between the highest point of the ridge of the main building roof and the line formed by the intersection of the top of the main building wall plate and the main roof plane~~ the highest roof surface. Not included in such measurements are 1) cornices which do not extend more than five (5) feet above the roof line; 2) chimneys, vents, ventilators and enclosures for machinery of elevators which do not exceed fifteen (15) feet in height above the roof line; 3) enclosures for tanks which do not exceed twenty (20) feet in height above the roof line and do not exceed in aggregate area ten (10) per cent of the area of the roof; and 4) towers, spires, domes and ornamental features.”

Analysis: Height Definition

9

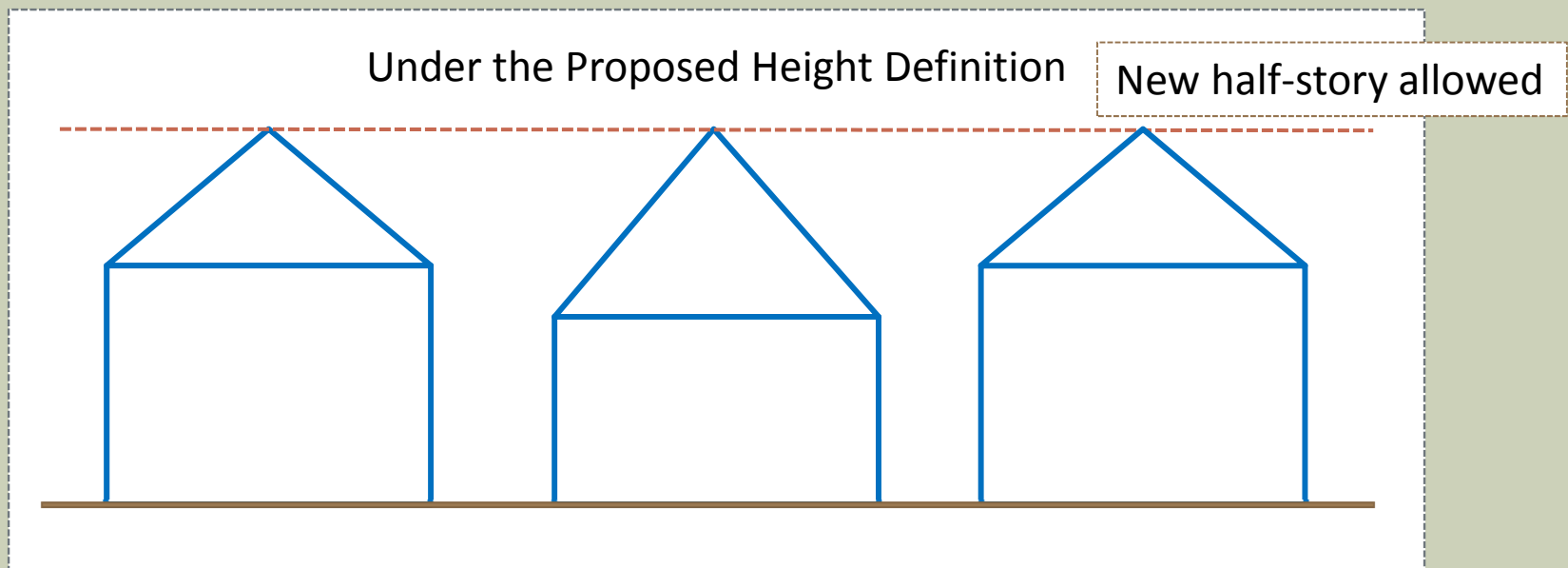
- The majority of surrounding communities clearly define height as measured to the “highest roofline” or similar
- The proposed definition change would apply to all properties
 - Half stories above the second story may only be built under a sloping roof
 - In practice, flat-roofed commercial structures are not affected



Analysis: Height Definition

10

- New half-stories would be allowed
- Maximum height is easy for inspectors to verify

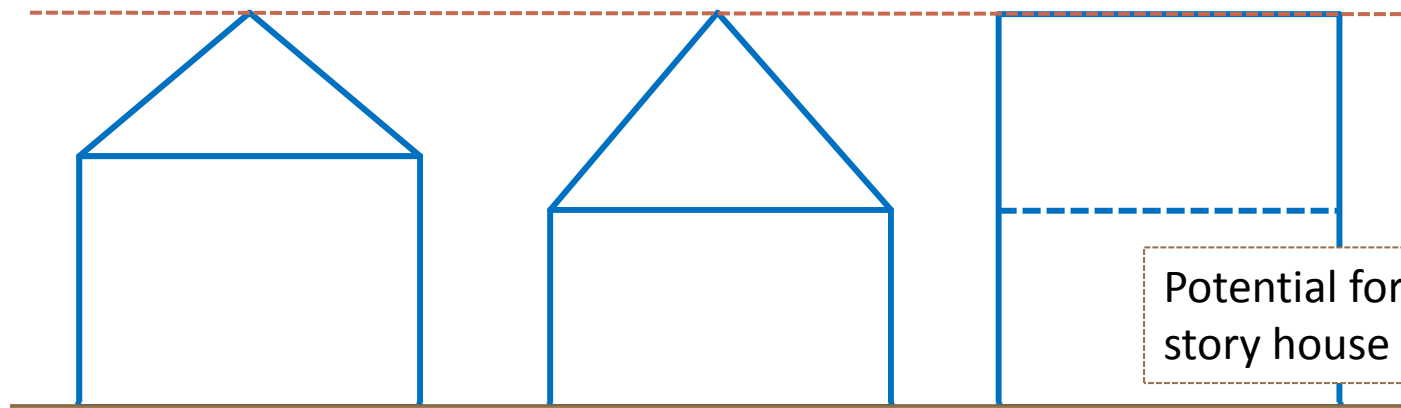


Analysis: Height Definition

11

- One potential problem with more modern house styles
- Option to increase height only for structures with a sloping roof
 - Need definition for sloping roof

Under the Proposed Height Definition

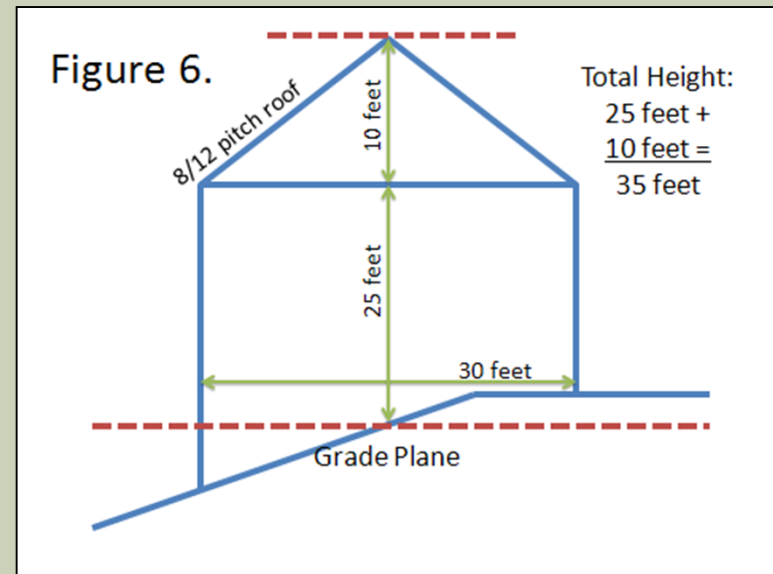
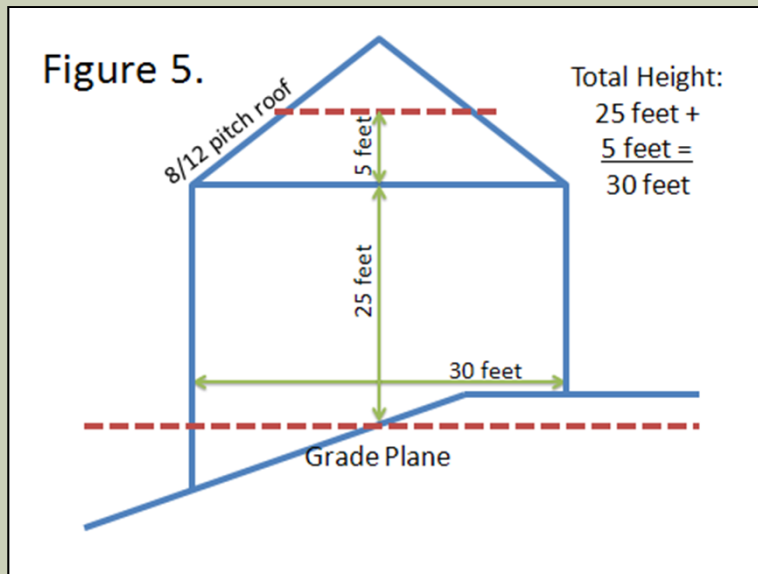


Potential for 36' two-story house (18' floors)

Analysis: Height Limit

12

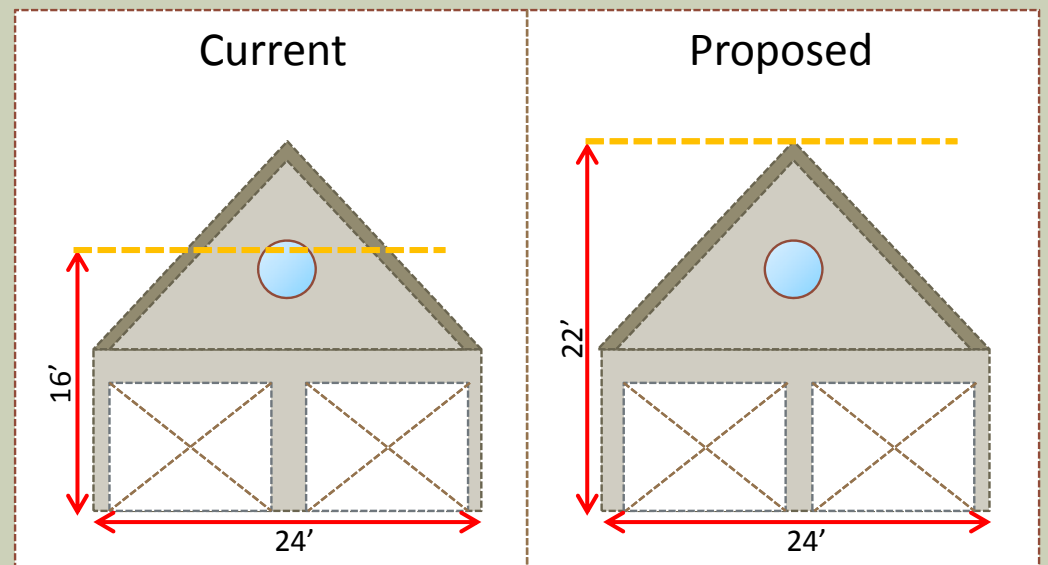
- New height of 36 feet would only apply to SR and MR zones
- The most neighboring communities allow 35 feet of building height for residential structures
- Combined with the above redefinition of height, a return to a height limit of 36 feet would have limited impact on new construction or existing homes



Analysis: Height Limit for Accessory Structures

13

- A change to the height definition would affect accessory structures as well
- Accessory structures are currently limited by Section 30-15(m) to a maximum height of 18 feet
- As for primary structures, change in definition suggests increase in limit:
 - ISD and Planning reviewed likely and appropriate garage configurations
 - Propose an increase of four feet to 22 feet total allowed height for accessory structures
 - A 22 foot limit would allow a 24 x 24 foot garage a 12:12 pitch roof



Analysis: Accessory Structure Relief

14

- Petition proposes allowing relief from height limit for accessory buildings by special permit rather than variance
- Staff research revealed no precedent in surrounding communities
- Very limited precedent in residential zones in Newton
 - In general, a variance is required for a conforming structure to exceed a density or dimensional requirement with some specifically noted exceptions
 - ✦ Residential FAR
 - ✦ Garage ground floor area
 - ✦ Some specific uses or residences in the MR3, MR4 and BU zones
 - Why accessory structures and not primary structures?
 - Such a rule should include maximum height under special permit and specific criteria for the special permit
- The Planning Department sees no adequate rationale for making the height of accessory structures an exception from the rule

Analysis: Consistency with the Ordinance

Reviewed Zoning Ordinance:

- In addition to the “height” definition, there is a definition of “height, contextual” which is used only by the Planned Mixed-Use Business Development (PMBD) section of the Zoning Ordinance
 - The “height, contextual” definition also uses the “midpoint” approach to measuring height
 - The committee may want to consider revising this definition to match the proposed new definition of height
- In addition to the height limits in Section 30-15, Table 1, the limits in Table 4 for rear lots should be similarly revised
- Some setback requirements in Section 30-15, Table 1 and Table 2 are derived from building height
 - The change in height calculation is unlikely to significantly affect such properties

Summary

16

- The Planning Department recommends the adoption of the revised definition and height limits as presented in this memorandum
 - Revised definition provides a specific, clear, verifiable benchmark for measuring height
 - Revised height regulations for SR and MR zones respond to changed height measurement method to preserve consistent outcomes
 - (Option: increase allowed height only for sloping roofs; define sloping roof)
- The Planning Department recommends against changing the allowed relief for accessory structures
 - No adequate rationale for special treatment



Setti D. Warren
Mayor

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Candace Havens
Director

#96-11

MEMORANDUM

TO: Scott Lennon, President of the Board of Aldermen
Members of the Board of Aldermen
David Olson, Clerk of the Board

FROM: Candace Havens, Director of Planning and Development

SUBJECT: Annual Report of the Economic Development Commission

11 MAR 28 P 3 06
CITY CLERK
NEWTON, MA 02159

Attached is the 2010 Economic Development Commission Annual Report for your review. This report was prepared by the EDC as required by Newton Code Section 22-95, and summarizes the Commission's activities and its recommendations for improving the economic condition and development of the City. It is provided for your reference only and no action is requested. It will also be posted online so it is available to the public.

Cc: Mayor Setti D. Warren
Bob Rooney, COO
Maureen Lemieux, CFO



2010 Economic Development Commission Annual Report

Prepared for: Newton Board of Aldermen
Prepared by: Newton Economic Development Commission
Submitted by: Daphne M. Collins, Chair

March 3, 2011

This Annual Report is dedicated to the memory of Gerard "Jerry" Adams, brilliant mind, tenacious advocate, wise counsel, Chair, Vice-Chair, member and friend of the Economic Development Commission. He was appointed to the EDC in January 2002 and served until his death in January 2011.



2010 EDC Annual Report

Background

The Economic Development Commission (EDC) was established under General Laws chapter 40, section 8A to promote and develop business and industry within the City of Newton. The Commission was charged with strengthening the local economy leading to new job opportunities for residents and expansion of the City's tax base. City Ordinance Article 5, Section 22-75 lays out the governing provisions as summarized below:

1. The Commission shall consist of 15 members appointed by the Mayor.
2. The Commission has the power and duty to:
 - study, investigate, and appraise economic conditions and trends;
 - promote, assist, and encourage the preservation, development and location of new and existing Newton industry, business and commerce;
 - investigate and assist in the establishment of commercial projects and identify appropriate commercial areas and zones for such establishment;
 - prepare and distribute informational publications;
 - cooperate with civic agencies/commissions/associations, state/federal agencies, municipal departments and officials, and business associations and organizations;
 - advise and make recommendations to appropriate officials, agencies, boards, department, and commissions of the City.

This report is prepared and submitted to the Board of Aldermen in compliance with City Ordinance Article 5, Section 22-75 (g) (10).

2010 in Review

The EDC has been and continues to be involved in a wide range of projects. Below is a summary of major projects and activities conducted during the January - December 2010 period:

Short Term and Long Term Goals and Strategies – Initiated and led by Collins, in May the Economic Development Commission devoted a meeting reviewing major relevant economic development documents - *Newton Comprehensive Plan, Economic Development Charter, FY2011 Planning and Development Budget Presentation-Economic Development Goals, Newton Centre Task Force Study* and the EDC's *Letter to the Mayor*. Highlighting the key points and identifying commonalities, the EDC established priority short-term and long-term goals.



Short-Term Goals and Strategies:

- Streamline the City's permitting process and address structural changes to make the City more responsive to the business community. Institute predictability.
- Improve Newton's "bio-ready" status
- Investigate Regional Economic Development Partnerships
- Look into best practices and ways that Newton can actively partner with cities and towns
- Gather data on economic development metrics and statistics
- Actively monitor the advancement of and assist:
 - Riverside
 - Newton Centre
 - Austin Street/Newtonville
 - Chestnut Hill Square/Route 9
 - Needham Street

Long-Term Goals and Strategies:

- Continue to monitor active projects in Newton Centre for consistency with the Newton Centre Task Force Study Report-Firefighters' Triangle, Cypress Street and address the implementation of plans proposed in the study.
- Zoning process simplification
- Re-zoning
- Parking
- Washington Street Corridor
- Future Village Studies

The advancement of these goals may be through EDC's monitoring, review/action, incubation and structural changes to make processes more responsive and predictable.

Mayor Setti Warren - Collins formally met with the Mayor during his Board and Commission Chair Meetings held during the first 100 days of his administration to discuss the EDC, its role, activities and membership. On behalf of the EDC, Collins presented him with the EDC's letter to the Mayor (see attached). Throughout the year the Mayor has met with the Collins to discuss his economic development priorities: Needham Street, Chestnut Hill Square, Newton Center, and Austin Street. They discussed areas and activities for constructive EDC collaboration and support. The Mayor is scheduled to attend the January 2011 EDC meeting to discuss how economic development is a cornerstone in his efforts to meet the fiscal challenges facing the City and how the EDC can collaborate on efforts to address the City's economic development climate.

Guidelines for Addressing the EDC - As an initial step in streamlining our services and being more responsive to businesses, the EDC developed *The Guidelines for Addressing the EDC*¹ for business/commercial applicants who are invited by the EDC for an optional evaluation of their official submitted proposals. These guidelines clarify the EDC's role,

¹ http://www.newtonma.gov/planning/edc/2010/EDC_Developer_Guidelines_Oct2010.pdf



delineate the process, provide a set of questions for discussion regarding the economic merits of their project, and describe the form of support the EDC may provide. Upon adoption, the guidelines came into use and were applied in the evaluation of the Chestnut Hill Square proposal. The development of the guidelines was led by Steele. In addition, Collins met with Alderman Ted Hess-Mahan, Chairman of the Land Use Committee, to discuss the adopted guidelines and the scheduling of applicable special permit applications to allow for an economic development review when merited.

Chestnut Hill Square - The EDC monitored the advancement of the Chestnut Hill Square mixed-use development proposed by New England Development for the 11.5-acre site located on Boylston Street/Rte 9. In September, the EDC invited New England Development to present the proposal and discuss its economic development aspects. Using the newly developed EDC Guidelines, the discussion between the developer and the EDC was in-depth and constructive. The EDC voted unanimously to support the proposal and submitted an official position paper supporting the development which became part of the Planning and Development Department's project analysis (see attached). Collins attended the Land Use Committee and formally presented the EDC's support at the Public Hearing. Plottel and Collins wrote a guest column for the TAB² in support of the project. The proposal was approved by the BOA.

Newton Centre - Newton Centre continues to be high priority area. The EDC monitors and actively lends support in ongoing public, business and commercial activities proposed in the village. This commitment is a result of its investment in the development of the *Newton Centre Task Force Study Report* (NCTFS) and the *Newton Centre Renaissance-A Road Map Forward* and the advancement of priorities and action steps identified in those reports.

Firefighters' Triangle - Chaired by Plottel, a feasibility study of the Firefighters' Triangle site located in Newton Centre was initiated in August. The working group consists of Eisenberg, Steele, Leader, Ives, Adams, Pears, and Lew who have been meeting regularly evaluating this important site, consulting with City staff, gathering data and analyzing potential options for an optimal use for this City-owned property.

Financial Feasibility Analysis Model - While initially developed as a component of the evaluation of the Firefighters' Triangle project, the financial cost/benefit model developed by Plottel and Steele has been designed to evaluate future projects as they come before the EDC. The financial insights gained from the model will help to identify a project's impact upon the City and will allow for more fruitful discussions between the EDC and developers.

Support of Business Expansion - In 2010, the EDC evaluated and supported the special permit applications for the expansion of Bill's Pizzeria, Pie and the establishment of the Deluxe Station Diner (see attached). The EDC submitted official position papers on the economic development merits of the proposals to the Land Use Committee. The EDC's substantive position paper for the Deluxe Station Diner contributed to the successful extension of a long term lease agreement from the MBTA required by underwriters. All three business applicants received formal support at the Land Use public hearings by an EDC representative (Collins and Eisenberg). The expansion and establishment of these

²<http://www.wickedlocal.com/newton/news/x2061439504/Collins-Plottel-Chestnut-Hill-Square-A-welcome-facelift-additional-tax-revenue-and-modest-mixed-use#axzz1FnHcDyFy>



businesses in Newton Centre are demonstrably compatible with the stated goals of the NCTFS and have added to the vitality and dining options in the village center.

Cypress Street - As a result of recommendations identified in the Newton Centre Task Force Study, a group of stakeholders composed of property owners, Aldermen, interested citizens, City staff and EDC member representatives, Eisenberg and Pears, are meeting regularly and are investigating parking solutions for Newton Centre at a site on Cypress Street. Pears is developing urban design models.

Business Improvement District - The EDC continues to explore and further the establishment of a Business Improvement District (BID) for Newton Centre, an identified priority established in the NCTFS. A BID is a special assessment district in which property owners vote to initiate, manage and finance services and enhancements beyond those provided by a municipality. Members of the EDC and staff (Collins, Cuddy, Steele, Stout) participated in a field trip, sponsored by Newton Villages, reviewing Newton villages for their potential for a BID with Emmy Hahn, DHCD Program Coordinator, who provided technical expertise and evaluation. Hahn identified Newton Centre as the most promising potential BID village center, further substantiating the EDC's findings in the NCTFS. In July, Cuddy, Collins, and Stout attended a workshop in Boston on BIDs sponsored by DHCD and later met with the Executive Director of the Newton Needham Chamber of Commerce to introduce and discuss the topic. The EDC continues through collaborations with Alderman Vicki Danberg, Alderman Stephen Linsky, Chairman of the Long Range Planning Committee, Mayor Setti Warren, City Staff, Newton Villages and BID technical experts to make marketing inroads towards a BID in Newton Centre.

EDC/Economic Development Advisory Committee (EDAC) Merger - Jack Leader continues to serve as the EDC representative on the EDAC, a separate, independent commission that reviews the CDBG Micro-Enterprise Loan Program. In 2010, the Micro-Enterprise Loan Program had approximately \$100,000. A total of 4 inquiries were received, only 1 small business application was reviewed and no loans were awarded. For the Family Child Care Business Providers Grant Program funded under the Micro-Enterprise Loan Program, 3 applications were received, 1 was approved and a total of \$2,000 was awarded. In an effort to streamline commission work, institute efficiencies, and increase marketing and participation in the program and provision of technical assistance to eligible, small business owners, the EDC voted to recommend that the EDC serve as the Economic Development Advisory Committee for the CDBG program and that the Consolidated Plan and Citizen Participation Plan be amended to reflect the change (see attached). Collins submitted and presented the amendment before the Planning and Development Board in September. Collins met with Stout, and Danielle Bailey, the Community Development Planner, to discuss the logistics of the merger. The request has been positively received and the legal implications are being reviewed by the Law Department.

Regional Economic Development Partnerships - The EDC has begun to explore ways of collaborating with our adjoining communities in various economic development efforts. Collins and Steele met with Adam Ploetz of the 495/Metrowest Partnership in June 2010. Ploetz provided insight on the Commonwealth's new regional legislation encouraging the formation of regional economic development partnerships to work in conjunction with the Massachusetts Office of Business Development. He was also able to relate lessons learned from his time at the 495/



Metrowest Partnership on best practices for establishing a cooperative working relationship which includes both municipalities as well as private and corporate members.

Mix-Use Task Force - The Mayor appointed Eisenberg and Adams to sit on the Mix-Use Task Force, a commission tasked to develop guidelines for large (over 10 acres) mixed-use developments. Eisenberg chaired and Adams served on the Finance Subcommittee of the Mix-Use Task Force which recommended that a cost/benefit analysis be conducted and required for proposals submitted under the Mix-Use Guidelines. In June, the Mix-Use Task Force held a public hearing at the Senior Center. EDC members were in attendance.

Newton Cultural Alliance - Rep. Kay Kahn and Alderman Vicki Danberg came before the EDC to present efforts undertaken by the NCA, a consortium of Newton-based non-profit arts and cultural organizations dedicated to improving the quality of life in Newton through the promotion of arts and culture, and to seek collaboration from the EDC regarding the untapped potential economic stimulus and development benefits derived from the arts. Eisenberg, a member of the NCA, was selected to serve as the EDC representative of the NCA.

Needham Street - The EDC continues to monitor and support advancements in efforts to improve Needham Street. Early in the year, the EDC instructed staff to convey to the Mayor their support and available assistance in his efforts towards an improved Needham Street. From September to December, a class of graduate students in the MIT Department of Urban Studies and Planning worked under the direction of the Planning and Development Department. The class held two public meetings at City Hall and delivered a final report – "Envisioning Needham Street" – to the City with their vision and recommendations. Many members of the EDC were in attendance. Bob Rooney, the City's Chief Operating Officer, joined the EDC in an informal discussion of Needham Street and the economic development potential of the abandoned rail right-of-way to this business corridor.

Austin Street - A high priority for the EDC is the advancement of an appropriate mixed-use development at an underutilized parking lot located on Austin Street in Newtonville. In 2010, the City released a Request for Interest (RFI) for the site and received three written responses from interested developers. The Board of Aldermen's Real Property Reuse Committee began the property reuse process, and a 14-member Joint Advisory Planning Group (JAPG) appointed by the Mayor and Ward 2 Aldermen will be established to study the potential development at the site. Collins formally requested that EDC members be considered in the appointments.

Dukakis Center Economic Development Self-Assessment Tool (EDSAT) - The Planning Department and the Long-Range Planning Committee of the Board of Aldermen are investigating the possibility of signing up for the EDSAT, a program offered by the Dukakis Center for Urban and Regional Policy at Northeastern University, to help assess the City's strengths and weaknesses in attracting local investment. Staff will investigate the cost and resulting value before making a recommendation to Mayor Warren. The EDC wholeheartedly supports the pursuit of this evaluation and wishes to be an active, involved participant.

Riverside - The EDC continues to monitor progress by the developer B.H. Normandy towards development at Riverside. In March, the Planning Department conducted a Community Meeting regarding development issues at Riverside; Cuddy, Pears and Adams participated. In May, the EDC discussed the site's potential development capacity of 1.3 million



square feet as identified in the Newton Comprehensive Plan and the economic benefits it could potentially provide the City. In June, Normandy held a public meeting to present an updated master plan and an updated traffic plan; Lew attended.

Membership -

- Jerry Adams
- Daphne M. Collins
- Matthew Cuddy
- Charles Eisenberg
- Robert Gifford
- Bruce A. Gold
- Jane Ives
- Jack Leader
- Peter Kai Jung Lew
- Caroline O'Leary
- Philip Plottel,
- Carol Ann Shea

New Appointments in 2010 were:

- John R. A. Pears.
- Christopher Steele

Resignations in 2010 were received from Caroline O'Leary, Carol Ann Shea who served for 20 years and Bruce Gold who served for 9 years. The EDC presented Certificates of Appreciation for their invaluable contributions to the EDC.

Election of Officers were held in March, preceded by nominations in February. Daphne M. Collins was elected Chair, Philip Plottel was elected Vice-Chair, and Jack Leader was reelected as Secretary.

Staffing - The City and the EDC has been without a full-time economic development staff since 2006, and had been unstaffed since March of 2008. Thanks to the institution of the Local Option Meal Tax adopted in 2009, a full-time Economic Development position was funded in the City budget. In March 2010, Amanda Stout, AICP, was selected and hired. A graduate of Williams College, with a Masters in Urban Planning from MIT, Stout brings a wealth of experience in economic development and planning gained from both the private and public sector. The Economic Development Commission selected Eisenberg to represent the EDC on the Selection Committee interviewing candidates for the Senior Economic Development Planner position.

Thanks to Stout the EDC website has been updated; she has participated and coordinated many of the EDC's initiatives; guided business applicants through the new established EDC's review process; and has identified and steward early in the internal City's application process projects of special interest to the EDC. As the ED Senior Planner she maintains communications and identifies areas of collaboration with:

- Newton-Needham Chamber of Commerce
- Women's Enterprise Initiative
- Massachusetts Department of Community and Development Office



- Metropolitan Area Planning Council

Attachments

1. EDC Letter to the Mayor, November 10, 2009
2. Chestnut Hill Square, September 24, 2010
3. Bill's Pizzeria, November 5, 2010
4. Pie, July 29, 2010
5. Deluxe Station Dinner, March 5, 2010
6. EDC/EDAC Merger, September 13, 2010



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

November 10, 2009

Mr. Setti Warren, Mayor-Elect of Newton
797 Washington Street, Suite 3
Newtonville, MA 02460

David B. Cohen
Mayor

Dear Mayor-Elect Warren:

The Economic Development Commission would like to congratulate you on your election. We hope to work closely with you on achieving our common goals.

Michael J. Kruse
Director
Planning & Development
Department

The beginning of a new Administration is an opportunity to redirect thinking toward broad new objectives. We would like to invite you to participate in a meeting of the Economic Development Commission. We are available whenever it fits your schedule. This will be an opportunity for you to share your aims and for us to let you know our current thinking on economic development. We hope that this may be of help in formulating your plans.

Economic Development
Commission

Robert Gifford, Chair
Daphne Collins, Vice Chair
Jack Leader, Secretary

Jerry Adams
Charles Eisenberg
Bruce A. Gold
Jane Ives
Peter Kai Jung Lew
Joyce Marchette
Caroline O'Leary
Philip Plottel
Carol Ann Shea
Francis Yerardi

This is a difficult time for Newton. Compared to more outlying areas, our growth has been slow. Newton is a mature suburb with little open-space suitable for developing new business or housing. Traffic density is high, with much through-traffic. The vitality of business in our villages has been declining as local business people have met competition from large scale shopping malls located in adjacent communities. The variety of products being offered in the village centers has declined and so has their pedestrian traffic. The city has failed to adapt to the changing demographics of its population—the influx of younger people and the aging of its existing population. Housing and shopping opportunities appropriate for young and old in our village communities are inadequate. Lacking sufficient economic development, our tax revenues are not keeping up with increasing costs. Inevitably, tax rates have been going up and the quality of municipal services has been difficult to maintain.

Economic development is an avenue to increase the vitality of our village centers and, at the same time, to ease the city's difficult financial situation. We must advance the City of Newton. Economic development is not just a matter of finance. It also involves creating a pleasant environment, one that attracts residents, and businesses and their customers, one that has social as well as economic sustainability. While we encourage economic development, we always keep in mind the importance of maintaining Newton's verdant low scale suburban environment. Many of our citizens moved into this area precisely because they value highly the "green" spacious nature of our village communities. This must be maintained. But it is not inconsistent with improved and more varied structures in our village centers. The proposed replacement of the parking lot that makes up the heart of Newton Centre, with green space and

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T 617/796-1120
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www.ci.newton.ma.us



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

development of housing and business in locations close to public transportation. Many of Newton's villages are ideally suited for Smart Growth initiatives.

The Comprehensive Plan provides a framework for economic development visions and goals. The main potential for economic development lies in Newton's many village centers. The Report of the Newton Centre Task Force (July 2008) outlined the possibilities for Newton Centre. Similar studies for many other Newton villages would show some of the same problems and many of the same potentials.

In recent months, we have seen specific development proposals:

- The Newton Firefighters' Triangle—This would involve a private-public partnership to rebuild the area surrounded by Lyman Street, Willow Street, and Centre Street. It would provide the city with a new fire station, additional parking, some housing, and some commercial space. It would represent the first step in a redevelopment of Newton Centre envisioned by the Newton Centre Task Force.
- Austin Street, Newtonville-- a proposal to take what is presently a city-owned parking lot and to build a mixed-use, housing and commercial, building. It would require the city to declare the property as surplus subject to its planned use including replacement of parking. It is envisioned as a first step in the economic redevelopment of Newtonville. Studies of other aspects of the Newtonville community, including a new public transportation facility, have been or will be carried out.

Business areas are also badly in need of improvement:

- Riverside—redevelopment of the MBTA parking facility at Riverside is being undertaken by a private consortium in collaboration with the MBTA.
- Needham Street—there is much potential for rethinking the business environment along the Needham Street corridor.
- Route 9—the planned development along Route 9 remains incomplete.
- Washington Street—the Washington Street corridor from Newton Corner to West Newton needs rethinking and development.

A number of barriers have long stood in the way of more rapid growth and development across the entire city, for example:

- zoning regulations that block mixed use development and construction of housing in many village centers,
- a cumbersome and slow special permit process, particularly burdensome to small business,
- parking needs, poorly met in many village centers, causing parked cars to occupy spaces on many residential streets,
- parking requirements linked to individual properties and in need of review,
- through-traffic blocking automobile and pedestrian passage at peak times in many village centers
- inadequate upkeep, making public spaces unattractive in some village centers.



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

Funds are available from a number of sources for studies of Smart Growth, transportation related issues, parking, green development, energy conservation, and other objectives. We must expand our search for outside support, so that the city of Newton can undertake studies of economic development possibilities. These studies will be helpful for Newton to initiate steps to restructure its villages and to overcome the broad obstacles to its development.

In recent years, Newton's economic development has been allowed to fall behind some of its neighboring communities. But times have changed. We operate under greater pressures than in the past. The Economic Development Commission suggests that the Mayor and the Aldermen put a high priority on the implementation of a broad-ranging program to foster economic development of Newton's village centers and business areas.

Respectfully submitted by The Newton Economic Development Commission,

Jack M. Heeder

Bruce A. Gold

Charles S. Eisenberg

Phil Platte

Gare H. Jones

R. K. Jones

F. Glenn Adams

Daphne M. Curran

Caral Ann Shea



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

September 24, 2010

The Honorable Ted Hess-Mahan, Chairman and
Aldermen of the Land Use Committee
Board of Alderman
City of Newton
1000 Commonwealth
Newton Centre, MA 02159

Setti D. Warren
Mayor

RE: Chestnut Hill Square Project Special Permit Application

Candace Havens
Interim Director

*Planning & Development
Department*

Dear Alderman Hess-Mahan and Members of the Land Use Committee:

*Economic Development
Commission*

*Daphne Collins, Chair
Philip Plottel, Vice Chair
Jack Leader, Secretary*

This letter is to report that at the September 14, 2010 meeting of the Economic Development Commission (EDC), the Commission heard a presentation by representatives of New England Development and Goulston & Storrs regarding the fiscal impact of the Chestnut Hill Square proposal. In advance of this meeting, the applicant was given a set of relevant economic development questions prepared by the EDC to inform and guide the presentation and discussion. The EDC voted, with a quorum present (Adams, Collins, Cuddy, Eisenberg, Ives, Leader, Lew, Plottel, Pears and Steele), to **unanimously support the Chestnut Hill Square proposal and the granting of the special permit application.**

*Jerry Adams
Matthew Cuddy
Charles Eisenberg
Robert Gifford
Jane Ives
Peter Kai Jung Lew
John R.A. Pears
Christopher Steele*

This wholehearted support of the Chestnut Hill Square proposal was based primarily on the merits of New England Development's qualifications and expertise, the improvement of a premium local commercial property in substandard condition, the creation of jobs and the tax revenue generation.

*Staff
Amanda Stout*

Applicant's Qualifications and Expertise

The EDC paid particular attention to the applicant's ability to successfully accomplish and deliver its commercial enterprise. New England Development presented a chronological overview of its 40 years of experience in retail, commercial and office development in the New England region and its leadership role in the industry nationally. Furthermore, the applicant highlighted their local development experience and contributions to jobs and the tax base, in particular, their association with the Wells Avenue Office Park, one of the top ten taxpayers in Newton. Having both direct, substantial experience in mixed-use development and an understanding of local and regional issues will be critical to getting this project built and successfully leased out.

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Improvement of a Premium Commercial Property

For the past 10 years, this 11.31-acre site comprised of 11 premium, commercial and residential parcels has sat vacant and in substandard condition. The goal for a much higher value and quality project at that site is a stated goal of the EDC and in the *Newton Comprehensive Plan*¹. A visible gateway into our City, this vacancy and underutilization has a general unfavorable effect on the abutting commercial neighbors and the provision of retail opportunities. In essence, the parcel is underperforming economically for the City. Approximately 55,000 to 61,000 automobile drivers pass daily by this parcel on their way east to Boston, originating from some of the highest household income areas in the Commonwealth. Furthermore, New England Development told the EDC that the high average income and attractive demographics of the Chestnut Hill area has led to interest from unique retailers and new-to-market stores and restaurants that operate in high-end locations. A vibrant, developed, and leased-out Chestnut Hill Square can provide retail opportunities, additional sales and meals tax revenue and an overall improved commercial and economic development impression and reality of Newton to this attractive market source.

Boylston Street (Route 9) is an area rich in commercial/retail opportunities (Chestnut Hill Mall, the Atrium Mall, Shaws Supermarket Emporium). The exterior market square design and the more intimate scale and mix of uses proposed for the Chestnut Hill Square is unique and sufficiently differentiated from existing retail experiences and businesses. The likely result is a more attractive and vibrant commercial corridor, that will enhance rather than detract from our existing established businesses.

Creation of Jobs

Newton is not immune from the current economic climate; its unemployment rate is 5.6%². The Boston MSA unemployment figure is 8.4%, 8.8% for the Commonwealth³. With our present economy still fragile, Chestnut Hill Square construction will provide an impressive 500 new construction jobs and a solid boost to our general economy and the construction industry sector.

Upon completion and lease-out, the residential, retail/restaurant, medical, health club and grocery spaces will also provide an estimated 600 permanent jobs. With health care being one of the few growth sectors, it's beneficial that the proposal is providing medical office space, a potential source of local employment and small business creation. Health care is projected to provide more new wages and jobs for the well-educated during 2013-2018⁴. At the EDC meeting, the development team noted that an estimated 50% of the medical office jobs would be net new jobs to the Commonwealth. Maintaining a significant Newton employment base is a stated goal of the *Newton Comprehensive Plan, Business Vision and Goals*⁵.

Tax Revenue

Increasing our tax revenue to meet the City's costs is a reality and a necessity.

¹ Newton Comprehensive Plan, pages 3-25, 28, 29, 32

² Mass. Executive Office of Labor and Workforce Development, Division of Unemployment, August 2010

³ U. S. Bureau of Labor Statistics, July 2010

⁴ U.S. Bureau of Labor Statistics, July 2010

⁵ Newton Comprehensive Plan, Business Vision and Goals, page 3-28



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

Presently, the combined 11 parcels have a FY2010 Assessed Property Value of \$22,714,900 and a combined Annual Tax Revenue of \$441,893.⁶ Upon completion of both phases of the project, the City stands to see an appreciable increase in the value of the site: an estimated Assessed Value of \$87,053,000 and Annual Tax Revenue of \$1,582,000⁷.

Additional sources of revenue to the City can be expected from sales and meals taxes. Even using a conservative computation from the business income generation from the potential additional retail and restaurant uses, the City can expect an increase in those sources.

Furthermore, the \$1,500,000 one-time building permit fees generated as a result of the construction of the project will provide an additional positive revenue source for the City. This figure would be a significant increase to this revenue source, representing approximately 50% of the total license and permit fees collected by the City in FY2010 (\$3,149,845) and anticipated in FY2011 (\$3,150,000).⁸

Conclusion

The Chestnut Hill Square proposal presents a major, timely economic opportunity to develop an underutilized premium commercial property along Boylston Street (Route 9) for mixed-use. Clearly identified as an economic development priority by the City in the *Newton Comprehensive Plan* and a top priority of the EDC, the EDC strongly supports this project as proposed.

The EDC expressed disappointment that the reality of the present market conditions led to a diminished proposal in terms of size and tax revenue generation for such a premium commercial site.

On balance, however, the economic development derived from a successfully completed, fully leased Chestnut Hill Square in these challenging times, may be a stronger indicator of Newton's commercial real estate strength and improved, responsive, business development climate - an exciting, beneficial project and outcome for the City.

Thank you for your time and consideration.

Sincerely,

Daphne M. Collins, Chair
Newton Economic Development Commission

CC:
Newton Board of Alderman
Members of the Economic Development Commission

⁶ Elizabeth Dromey, Newton Assessor; Annual Tax Revenue is based on FY2010 taxes (assessed value multiplied by either commercial or residential tax rate, based on current classification) plus the CPA surcharge.

⁷ "A Fiscal Impact Analysis: Chestnut Hill Square, A Mixed-Use Development, Newton, Massachusetts," Connery Associates, September 17, 2010, Table 9, page 14.

⁸ City of Newton FY 2011 Recommended Budget, Comparative Summary of Fund Sources and Uses, page 1.



CITY OF NEWTON, MASSACHUSETTS

ECONOMIC DEVELOPMENT COMMISSION

Douglass E. Karp, New England Development
William R. Cronin, Jr., New England Development
John E. Twohig, Esq., Goulston & Storrs
Timothy W. Sullivan, Goulston & Storrs
Candace Havens, Interim Director of Planning and Development
Elizabeth Dromey, Director of Assessment Administration
Amanda Stout, Senior Economic Development Planner
John Connery, Connery Associates



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

November 5, 2010

The Honorable Ted Hess Mahan, Chairman and
Aldermen of the Land Use Committee
Board of Aldermen
City of Newton
1000 Commonwealth
Newton Centre, MA 02159

Setti D. Warren
Mayor

RE: Special Permit #266-10
Bill' House of Pizza, Inc. d/b/a Bill's Pizzeria, 751-753 Beacon Street

Candace Hayens
Interim Director
Planning & Development
Department

Dear Alderman Hess-Mahan and Aldermen of the Land Use Committee:

*Economic Development
Commission*

*Daphne Collins, Chair
Philip Plottel, Vice Chair
Jack Leader, Secretary*

This letter is to report that at the October 12, 2010 meeting of the Economic Development Commission (EDC), the Commission heard a presentation by Dean Chronopoulos, owner of Bill's Pizzeria, and Steve Buchbinder, representative of the owner. The EDC limited its review to the economic development aspects of the proposed expansion. In preparation of this meeting, the applicant was given a set of relevant economic development questions prepared by the EDC to inform and guide the presentation and discussion. The EDC voted, with a quorum present (Adams, Collins, Cuddy, Eisenberg, Ives, Leader, Jung Lew, and Plottel), to unanimously support the special permit application to expand the seating capacity of Bill's Pizzeria from 33 seats to 57 seats and the granting for a parking waiver of nine stalls.

*Jerry Adams
Matthew Cuddy
Charles Eisenberg
Robert Gifford
Jane Ives
Peter Kai Jung Lew
John R.A. Pears
Christopher Steele*

The wholehearted support of the Bill's Pizzeria proposal was based on the merits of Dean Chronopoulos' small business expertise, the viability the proposed business expansion for Bill's Pizzeria, and the direct compatibility of the proposal with the established economic development goals and objectives of the Newton Centre Task Force Study Report and the Newton Comprehensive Plan.

*Staff
Amanda Stout*

Applicant's Qualification and Expertise

Dean Chronopoulos is a creative, accomplished entrepreneur and small business owner of the highly successful Bill's Pizzeria. Established by his family in 1977 and owned by Dean since the 1990's, Bill's Pizzeria has grown through Dean's keen understanding of Newton and the Newton Centre Village community. Avoiding traditional marketing efforts, Chronopoulos has integrated his business into the community culture through word of mouth, support of local school and neighborhood activities, and the establishment of the popular Bill's Pizzeria 5K Charity Road Race (now in its fifth year, attracting nearly 1000 runners). The

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Bill's Pizzeria restaurant brand is strong, unique and village-centric, whose following and loyalty extends well beyond its quality product and menu.

Viability of the Proposed Business

According to Chronopoulos, Bill's Pizzeria is a 60% take-out and 40% dine-in business. He estimates that over 75% of his business comes from the neighborhood who can easily access his location by walking. The proposed expansion is targeted to increase the dine-in-ratio and to meet the demands of young village families and date-night couples for an eat-out experience. Chronopoulos has the interior space capacity along with a liquor license, to create a quality dine-in experience to meet this demand. Not capitalizing on the physical space capacity would continue to limit the business to take-out and hinder the dining experience he wishes to provide.

This expansion is well thought out and contains all the necessary factors for a successful restaurant/business expansion: a 35 year establishment, an experienced local restaurant entrepreneur, space capacity and local market demand.

Compatibility with Economic Development Goals of the Newton Centre Task Force Report (NCTF) and Newton Comprehensive Plan (NCP)

A vibrant village Newton Centre is a stated goal in both the NCTF and the NCP. Attracting people to the village centers in off-hours by a high quality business, focused on the local community needs, is precisely what the expansion of Bill's Pizzeria would offer.

Conclusion

We are aware of the parking issues in Newton Centre and the need for a comprehensive parking solution. However, we wish to note that there is available parking within walking distance of Bill's Pizzeria based on the results of a parking study conducted in Newton Centre and reported in the NCTF Report, as well as in the more recent study conducted by Lou Mercuri, the applicant's consultant. In addition, the location of the restaurant to public transportation makes a compelling case for arrival by an alternative mode to the automobile.

The EDC strongly supports this proposal and the granting of the applicant's waivers. We believe Bill's Pizzeria expansion will continue to be an asset to Newton Centre's retail and business attraction and it is complimentary to the goals and objectives of the Economic Development Plan of our City.

Thank you for your time and consideration.

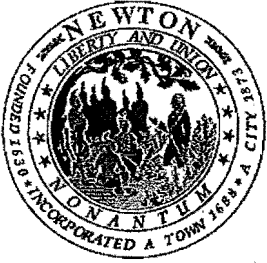
Sincerely,

Daphne M. Collins, Chair
Newton Economic Development Commission



CITY OF NEWTON, MASSACHUSETTS
ECONOMIC DEVELOPMENT COMMISSION

CC: Board of Aldermen
Members of the Economic Development Commission
Steve Buchbinder
Dean Chronopoulos
Candace Havens, Acting Director of Planning
Amanda Stout, Senior Economic Development Planner



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

July 29, 2010

Alderman Ted Hess-Mahan, Chair and
Members of the Land Use Committee
City of Newton
1000 Commonwealth Avenue
Newton MA 02459

Setti D. Warren
Mayor

Re: **Petition #151-10** – PIE PIE LLC d/b/a Continental, 796 Beacon Street

Candace Havens
Interim Director
Planning & Development
Department

Dear Alderman Hess-Mahan:

This letter reports that at the Economic Development Commission (EDC) Meeting of July 13, 2010, the Commission reviewed and discussed the **Petition #151-10** – *PIE PIE LLC d/b/a Continental, 796 Beacon Street*. EDC members present (Jerry Adams, Chuck Eisenberg, Bruce Gold, Jane Ives, Jack Leader, John Pears, Carol Ann Shea, Chris Steele, and myself) voted unanimously to support the Petitioners' Special Permit/Site Plan petition to waive the 9 parking spaces in order to expand to a 48-seat restaurant with conditions.

Economic Development
Commission

Daphne Collins, Chair
Philip Plottel, Vice Chair
Jack Leader, Secretary

Parking Waiver Condition – we support the waiver of the 9 parking spaces temporarily. In the short term, we believe Newton Center has sufficient parking capacity based on the *Newton Centre Task Force Final Report*, on other more recent parking studies, which identified the peak occupancy of all available parking supply in Newton Center at approximately 80%, and on the restaurant's proximity to public transportation. However, we suggest that you consider grandfathering the 9 parking spaces requirement for when there is a more comprehensive parking solution in Newton Centre.

Jerry Adams
Matthew Cuddy
Charles Eisenberg
Robert Gifford
Bruce A. Gold
Jane Ives
Peter Kai Jung Lew
John R.A. Pears
Carol Ann Shea
Christopher Steele

In-lieu of Parking Fees – we do not support the Planning Department's recommendation of a financial compensatory contribution at this time. Independent, retail restaurants operate on small margins of profit. We believe an imposition of a parking fee would be particularly onerous especially at this phase of its business expansion.

Staff
Amanda Stout

We believe the expansion and rebranding of Pie Bakery + Café to "Continental" is timely, smart and critical to its success in view of the arrival of additional restaurant/eateries to Newton Center. We believe its expanded hours and capacity will position itself more competitively and will contribute to the overall vitality of the village.

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We support this proposal and the granting of the Petitioner's waiver. We believe that the future expanded "Continental" will be an asset to Newton Centre adding to the retail and business attraction. We believe its success is complimentary to the goals and objectives of the Economic Action Plan of the *Newton Comprehensive Plan* and the recommendations of the *Newton Centre Task Force Report*.

Sincerely Yours,

ECONOMIC DEVELOPMENT COMMISSION

By: Daphne M. Collins, Chair

CC: Board of Aldermen
Ellen Kaplansky
Stephen J. Buchbinder
Candace Havens
Members of the Economic Development Commission
George Levy



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

March 5, 2010

Alderman Ted Hess-Mahan, Chair and
Members of the Land Use Committee
City of Newton
1000 Commonwealth Avenue
Newton MA 02459

Setti Warren
Mayor

Re: **Petition #45-10** – Deluxe Station Diner, 70 Union Street

Dear Alderman Hess-Mahan:

Candace Havens
Acting Director
Planning & Development
Department

Economic Development
Commission

Daphne Collins, Chair
Phil Plottel, Vice Chair
Jack Leader, Secretary

Jerry Adams
Matt Cutty
Charles Eisenberg
Robert Gifford
Bruce A. Gold
Jane Ives
Peter Kai Jung Lew
Caroline O'Leary
John Pears
Philip Plottel
Carol Ann Shea

This letter reports that at our March 2, 2010 meeting at which the members present heard a presentation from Don and Daryl Levy, dba Deluxe Station Diner, regarding their business proposal to locate a 90 seat restaurant at the presently vacant T-Stop at 70 Union Street. EDC members present (Jerry Adams, Matthew Cutty, Chuck Eisenberg, Jane Ives, Jack Leader, Peter Kai Jung Lew, Caroline O'Leary, John Pears, Carol Ann Shea and myself) voted unanimously to support the Petitioners' business petition and the granting of the parking and restaurant seating size waivers.

Our wholehearted support stems from the Petitioners' compelling business plan for success especially in these difficult economic times. The Petitioners have over 40 years of business experience which includes over 10 years running the very successful Delux Diner in Watertown which has a strong, loyal customer following based on service, neighborhood integration and a unique, quality product. In addition, the Petitioners have experience in capitalizing on the unique architecture of their location and integrating it into the business culture. They have direct experience working collaboratively with their business neighbors and successfully differentiating themselves in a community rich in eateries of which three are successful diners.

The Petitioners respond to the needs and demands of their customers and will be gauging their Newton business hours, product and services on the particular needs of the T-commuters. Based on the captive market group of 1500 daily t-riders, the abutting neighbor customers, their built-in loyal customer base, and their experience of operating a similar restaurant in seat capacity and area size, we support the granting of the restaurant seat allowance of over 90 seats.

We also support the Petitioners' request for a waiver of 18 parking spaces. We believe parking spaces are available. Based on the results of a parking study conducted in Newton Centre and reported in the *Newton Centre Task Force Report*, the maximum parking occupancy peaked at around 80% from all the available parking supply. In addition, the location of the restaurant on the T-line

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**CITY OF NEWTON, MASSACHUSETTS
ECONOMIC DEVELOPMENT COMMISSION**

makes a compelling case for arrival to the restaurant by public transportation. The Petitioners are proposing to provide Charlie Cards for the employees.

We strongly support this proposal and the granting of the Petitioners' waivers. We believe that the Delux Station Diner will be an asset to Newton Centre adding to the retail and business attraction. We believe its success is complimentary to the goals and objectives of the Economic Action Plan of the Newton Comprehensive Plan.

Sincerely Yours,

ECONOMIC DEVELOPMENT COMMISSION


By: Daphne Collins, Chair

Cc: Board of Aldermen
Don and Daryl Levy
Candace Havens
Members of the Economic Commission



CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

September 13, 2010

Tabetha McCartney, Chair and
Members of the Planning and Development Board
City of Newton
1000 Commonwealth Avenue
Newton MA 02459

*Setti D. Warren
Mayor*

**Re: Request to Consider that the Newton Economic Development
Commission serve as the Economic Development Advisory Committee**

*Candace Havens
Interim Director
Planning & Development
Department*

Dear Ms. McCartney and Board Members:

On behalf of the Newton Economic Development Commission, I respectfully request that you consider the Newton Economic Development Commission (EDC) to serve as the citizen advisory committee for economic development issues under the CDBG program.

*Economic Development
Commission*

The EDC believes that this change will provide procedural efficiencies, will integrate more holistically the gathering and usage of data on Newton economic trends, and will increase the promotion of and technical assistance to CDBG funded economic development activities.

*Daphne Collins, Chair
Philip Plottel, Vice Chair
Jack Leader, Secretary*

Economic Development Commission General Background

*Jerry Adams
Matthew Cuddy
Charles Eisenberg
Robert Gifford
Bruce A. Gold
Jane Ives
Peter Kai Jung Lew
John R.A. Pears
Carol Ann Shea
Christopher Steele*

The EDC is established under City Charter Sec. 22-95. Appointed by the Mayor, this 15-member board is charged to study and appraise economic conditions and trends, promote and encourage preservation and development of business, cooperate and coordinate activities with municipal groups, departments and organizations in Newton including neighborhood associations, confer with state and federal agencies, advise and make recommendations to appropriate officials, boards and departments regarding actions which would affect the economic development conditions of the City, to name just a few of its relevant responsibilities.

*Staff
Amanda Stout*

Procedural Efficiencies

The EDC acting as an advisory committee will naturally provide efficiencies. The EDC meets monthly, every second Tuesday of the month in Room 209. The commission can easily accommodate regular and unforeseen CDBG matters in its agenda, responding quickly to items and forwarding them to the Planning and Development Board for action. This allows the part-time Community Development Planner to schedule more proactively.

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In addition, I believe that by having the Community Development Planner report CDBG issues to the EDC, there will be more awareness and cooperation in economic development activities targeted for low/moderate income not only by the EDC but by the EDC staff.

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CITY OF NEWTON, MASSACHUSETTS ECONOMIC DEVELOPMENT COMMISSION

Integration of Economic Data

The EDC serving as the advisory committee will integrate Newton's economic data. The EDC is charged by the City Charter *to study, investigate and appraise economic conditions and trends*. Presently, the substantial research and data gathered regarding low- and moderate-income economic trends, described in the Consolidated Plan, Annual Action Plan and CAPER, are not presented or reviewed by the EDC. Having this information presented and reviewed by the EDC will consolidate this information where it can be used in other EDC initiatives and analysis expanding its circulation and usage.

Technical Assistance and Promotion

The EDC acting as the advisory committee will provide needed technical assistance and promotion of CDBG economic development activities. The EDC has a depth of professional expertise in financial services, development, economics, planning and small business, which can be used in the evaluation of CDBG funded activities. Presently, an EDC member serves on the EDAC and assists in the evaluation of the Micro-Enterprise loans.

The EDC is actively involved in the business community. They frequently review and evaluate new and expanding business, and can easily promote the Micro-Enterprise Loan program to eligible businesses.

The EDC voted unanimously at its August 10, 2010 meeting to recommend that the EDC be considered the Economic Development Advisory Committee and that the Citizen Participation Plan be amended to reflect this proposed change. We believe that this proposal will provide efficiencies, that it is consistent with its mission under the City's Charter and the Citizen Participation Plan for CDBG economic development activities. If you have any further questions, feel free to contact me. Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daphne M. Collins".

Daphne M. Collins, Chair
Newton Economic Development Commission

CC: Amy Yuhasz, Associate Director of Housing and Community Development
Candace Havens, Acting Director, Planning and Development Department
Members of the Economic Development Commission
Amanda Stout, Economic Development Planner
Danielle Bailey, Community Development Planner