

City of Cambridge

The Ordinance Committee of the Cambridge City Council and the Planning Board held a joint public hearing on November 12, 1996, beginning at 5:36 pm in the Sullivan Chamber for the purpose of considering technical amendments to the Zoning Ordinance proposed by the Planning Board.

Present at the hearing were Councillor Francis H. Duehay, Chair of the Committee, Vice Mayor Kathleen L. Born, Councillor Henrietta Davis, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr. Councillor Katherine Triantafillou, and City Clerk D. Margaret Drury. Also present were the following members of the Planning Board, Paul Dietrich, Chair, Carolyn Mieth, Vice Chair, Hugo Salemme, William Tibbs, Florrie Darwin and Scott Lewis, and Planning Board staff Lester Barber and Liza Malenfant.

Councillor Duehay convened the hearing and explained the purpose. He stated that the Planning Board has submitted these proposals to the City Council two times before, but on both occasions the City Council did not act on them before the expiration date of the petitions. He introduced the members of the City Council present and then introduced Paul Dietrich, Chair of the Planning Board. Mr. Dietrich then invited the members of the Planning Board to introduce themselves and they did so.

Councillor Duehay suggested a short discussion of procedures for the meeting. Paul Dietrich suggested separate votes of the Ordinance Committee and the Planning Board, and it was so agreed without objection.

Councillor Sullivan asked if the present proposal is identical to the two previous submissions upon which the Ordinance Committee held hearings.

Lester Barber said it is identical except for one change in the language defining basements and cellars. That additional change came out of the last Ordinance Committee meeting where there was a suggestion from Inspectional Services Commissioner Bersani to harmonize the definition with the definition of "story above grade" in the state building code. That suggestion was incorporated into the proposed amendment.

Councillor Duehay and Mr. Dietrich requested that Lester Barber go through all of the amendments, one by one.

Mr. Barber began with the proposal to harmonize the two locations in the Ordinance where the listing of special permits subject to the requirements of the Incentive Zoning Provisions (Sec. 11.200) appears.

Mr. Barber explained that Section 10.48 (the section of the Zoning Ordinance that sets out general rules governing issuance of special permits) and Section 11.200 (the detailed

provisions of the city's incentive zoning ordinance) are meant to have parallel listings of those special permits that trigger the provisions of Section 11.200, i.e. the payment of a fee to the Affordable Housing Trust for each square foot of development authorized by the special permit, above 30,000 square feet. In adopting the Central Square Overlay District, the new special permits created that are subject to the incentive zoning requirements were listed in 10.48 but not in 11.200. This amendment lists the permits in Section 11.200 as well.

When the Incentive Zoning Provisions were adopted in 1988, a number of previously existing special permits in the Harvard Square Overlay District were made subject to the new ordinance. At that time, however, the special permit waiver of setback requirements was overlooked. As this provision differs little from other incentive provisions in the Harvard Square Overlay District that are subject to Section 11.200, it is logical to correct that omission. Therefore, this special permit is added to the list of permits subject to Section 11.200.

Councillor Duehay then invited public comment in favor of the proposed amendment. There was none. Councillor Duehay invited public testimony in opposition to the proposed amendment. There was none.

Vice Mayor Born asked whether Mr. Barber believes this amendment will discourage people from applying for special permits. For example, would someone be disinclined to apply for a special permit for a parking waiver because of the linkage requirements?

William Tibbs said that amendment is correcting the language to reconcile sections.

Mr. Dietrich reported that the Planning Board has voted to recommend this amendment to the City Council.

Councillor Sullivan moved referral to the City Council with a favorable recommendation. The motion passed on a unanimous voice vote.

Councillor Duehay moved to the second proposed amendment, a clarification of the intent of provisions of the ordinance regulating the location of parking spaces in relation to dwelling houses and side lot lines.

Mr. Barber explained that paragraph a, adopted in 1981, is intended to allow the parking of automobiles somewhat closer to one, two and three family dwellings than is required for all other dwellings and uses, which are required to be set back at least ten (10) feet. The language, however, has been interpreted to mean that no setback at all is required, when at least a five foot setback was intended. The language modifications are meant to restore the original intent of the provision.

Paragraph b, also adopted in 1981, eliminates the side and rear yard setbacks for parking spaces and driveways on lots with three or fewer units in pre-existing buildings. It recognizes that desirable parking would be difficult to locate on lots densely developed before the parking

requirement was established and therefore relaxes the setback standards somewhat for small dwellings. Dense development, however, is not typically the prevailing condition in the A-1 and A-2 residential districts, where large lots and side yards are required and routinely provided even in long-developed lots. Therefore, this amendment would not grant the waiver of the five-foot setback requirement for any dwellings in the Residence A districts; other changes are meant to clarify the original language.

Councillor Sullivan asked whether the new provision would force the placement of driveways in backyards instead of sideyards. Mr. Barber said that he did not believe that it would have this result.

Councillor Triantafillou said that this seems unfair for neighborhoods where every other house has a driveway, and a resident cannot get one. She asked what is the reason for this amendment. Mr. Barber said that the intent focuses on exhaust coming in through windows, and on shifting parking somewhat.

Councillor Triantafillou said why the City cares. Paul Dietrich responded that it is often the neighbor of the person seeking the driveway who cares. Councillor Triantafillou asked what if the neighbor doesn't care. Mr. Barber said that in such a case the property owner who wants the driveway can go to the Board of Zoning Appeals (BZA), and where the situation is similar to that described by Councillor Triantafillou, with no neighborhood opposition and an owner occupied property for which the driveway is sought, the BZA is often able to grant a variance.

Mr. Barber noted that these requirements also apply to multifamily and commercial buildings.

Councillor Triantafillou said that she knows of a North Cambridge resident who was completely unable to get a driveway in such a situation.

Councillor Sullivan said that most driveways in the City are out of compliance. He knows of no driveway on Green Street that is farther than five feet from the building.

Paul Dietrich said that these are also the rules that apply to commercial development, and very often the neighbors are very upset by the encroachments of developers. Two neighbors can always come to the BZA. He noted that there is also a planning perspective of how we want the City to be. Driveways also require curb cuts and remove street parking. You would at least like to keep the fumes away from open windows.

Councillor Sullivan said that these regulations are really aimed at buildings that will be owner occupied and that driveways usually remove more than one car from parking on the street.

Councillor Davis asked if this is basically a protection for neighbors.

Mr. Dietrich said that this is correct.

Councillor Davis said that although the BZA may have no legal right to give a variance in this type of case, in terms of the strict definition of "hardship," if neighbors are agreeable, it is likely that the BZA would grant a variance.

Vice Mayor Born said that the distinction between the requirement for three and four units is extreme. She then noted that there is very little distinction between what an owner can do and what a neighbor can impose on neighbors.

Alex Steinbergh, Clinton Street, requested to record his opposition to the proposal.

Vice Mayor Born asked if there is a side setback requirement for existing buildings. Mr. Barber said that there is an exemption for one, two and three unit buildings. Vice Mayor Born noted that a property owner can skew the driveway to be much closer to their neighbor's building than to their own.

Councillor Sullivan and Councillor Duehay noted that their residences have just a fence and hedge respectively between their own and their neighbors' driveways.

Councillor Triantafillou asked what problem the proposed change solves. Mr. Barber said that the ordinance is meant to discourage new parking spaces in tight spaces where neighbors will be adversely affected.

Councillor Triantafillou asked if this arises often. Mr. Barber said that it does come up. Councillor Duehay noted the Shepard Street petition last year. Councillor Davis noted Chilton Street. Mr. Barber said that this section does not affect the Chilton Street issue.

Helen Lambert, 25 Sacramento Street, stated that she is concerned about a lack of clarity regarding the intent and effect on neighbors.

Councillor Sullivan said that the setback requirement forces owners to build driveways closer to their neighbors' property.

Mr. Barber said that the ordinance has always been interpreted to measure the distance from the owner's buildings, not the neighbor's building, so that is possible. He said that the thought is that it is undesirable to have cars driving and idling under windows. There is also a recognition that parking is desirable, thus the exemption for pre-existing one, two and three family houses.

Councillor Triantafillou asked whether it is possible to redraft the proposed ordinance so that the setback is from the abutting building. Mr. Barber raised the possibility that such an amendment might require re-advertising.

Councillor Duehay noted that public testimony on this matter has been recorded and asked if there were other members of the public who wanted to be heard. There were none.

Councillor Duehay requested the Planning Board's position. Mr. Dietrich said that the Planning Board is in favor of this amendment to clarify the original drafting intent. There may well be additional amendments regarding protections for abutters that should be looked at.

Councillor Sullivan moved referral of the proposed amendment without a recommendation from the Ordinance committee. The motion passed on a voice vote, with Vice Mayor Born recorded in the negative because she desired a positive recommendation.

Councillor Sullivan then moved that the Planning Board be requested to report to the City Council on the various issues discussed here relative to driveways with regard to sideyards and the protection of abutters. The motion passed on a voice vote.

Councillor Duehay then moved to the third proposed amendment; an alteration in the language defining the basement and cellar areas that are excluded from the Floor Area Ratio (FAR) restrictions of the Zoning Ordinance.

Mr. Barber explained that basements and attics have routinely been exempt from Gross Floor Area (GFA) calculations when their dimensions are such that they are not easily useable for occupancy and/or where the volume of the excluded portions was modest and did not contribute to a significant increase in the perceived bulk of the building from the public street or from abutting lots. However, the current language has made it possible to circumvent the intent of these provisions and construct perfectly useable, habitable (as defined by the Building Code) living space in excess of the limits the FAR standard in each zoning district is intended to impose.

For instance, in both basements and attics, easily removable "finished ceilings" can be installed to meet the dimensional standards for exemption; removal of those ceilings creates habitable space that otherwise would be required to counted as GFA. Basements (defined as a floor, any portion of which is below grade) have been routinely constructed where only inches of the space have been below finished grade; the result has been "basement space" essentially fully out of the ground and contributing considerably to the perceived bulk of new construction and containing space, like recreation rooms, that the Building Code allows to be occupied. Townhouse developments in particular have employed these devices to create additional and quite useable living space, and additional bulk.

This amendment is meant to restore the original intent of these provisions by doing the following:

* Taking the relevant ceiling height measurement from a permanent element of the building's structure, i.e. roof rafters or floor joists.

* In the case of basements and cellars, reducing the measured ceiling height from less than 7'3" to less than 7', and further requiring that no more than four feet of that height be above the finished mean grade.

He distributed a visual description of the proposal (Attachment B).

Vice Mayor Born asked whether there is a difference between the treatment of new construction and renovation. Mr. Barber said that there is not.

Councillor Duehay then invited public comment regarding the proposed amendment.

Helen Lambert, 25 Sacramento Street, asked if it would affect tax assessments. Mr. Barber said that he doubted that it would. He noted that it is in response to complaints about bulky townhouse developments.

Councillor Duehay invited additional public comment. There was none.

Councillor Sullivan moved that the proposed ordinance be referred to the City Council with a favorable recommendation, and the motion passed on a voice vote.

Councillor Duehay moved to the next proposal, D in the Planning Board's report (Attachment A). Mr. Barber explained that the existing 11.15, which sets out the dimensional requirements applicable to townhouse developments, is unclear as to how changes to townhouses should be regulated after construction and after the development has been subdivided into lots, and after many owners have acquired interest in the property. The lack of clarity has complicated interpretation of the regulations when the allocation of residual Gross Floor Area among multiple lot owners is necessary; the construction of decks, additions, bay windows is proposed; or the loss of open space as a result of such changes arises. Further the policy question is raised as to what the appropriate role of owners of lots in the townhouse development should be when fellow owners propose changes in often tight physical circumstances.

This amendment defines how dimensional requirements are to be applied to subdivided lots (to the new subdivided lot lines) and how changes to townhouses are to be reviewed (through a special permit review by the Planning Board or the Board of Zoning Appeal when the dimensional standards cannot be met). Certain limited alterations, like bay windows, are allowed to proceed without a special permit.

Mr. Barber noted that the exception for bay windows arose with respect to a Follen Street townhouse where an owner wanted to build a small bay.

Councillor Duehay invited the Planning Board to provide its position on this amendment. Mr. Dietrich stated that the Planning Board views this amendment as a clarification which it supports.

Councillor Sullivan moved that the amendment be referred to the City Council with a favorable recommendation and the motion passed on a voice vote.

Councillor Davis moved the discussion to item E in the Planning Board report, proposed modifications to the setback requirements of the Residence C-2B district, as suggested by participants in the 1995 rezoning effort that applied this district to the Youville Hospital property.

Councillor Sullivan disclosed that he serves on a foundation board of Youville Hospital that does not have any control over budgetary matters.

Mr. Barber explained that when the Residence C-2B District was created in 1986, it retained most of the use and dimensional characteristics of the Residence C-2 district, except that the height was reduced from 85 feet to 45 feet. Because the volume of permitted building (Floor Area Ratio) was not altered, it was deemed desirable to grant some flexibility in the front and side setbacks required so that shorter buildings might be more appropriately sited on some lots. That flexibility is provided through a special permit from the Planning Board, to reduce the front yard to no less than ten feet and the side yards to no less than 20 feet. When the Residence C-2B District was applied to the Youville Hospital site, there was concern expressed that this potential to reduce the required setbacks might allow hospital buildings to be placed too close to homes on Leonard Avenue. To eliminate that possibility, the amendment would not permit the application of the special permit reduction of front and side yards to any structure on a lot that is not exclusively used for residential purposes.

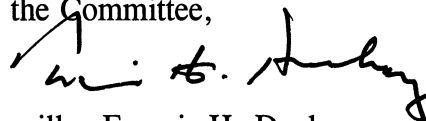
Mr. Barber recommended an additional technical amendment, the insertion of a comma in line three of Sec. 3(d), between the words "lot" and "containing" so that the section reads as follows:

- 3.(d) In a Residence C-2B district the required front yard may be reduced to a minimum of ten (10) feet and the required side yard may be reduced to a minimum of twenty (20) feet, after the issuance of a special permit from the Planning Board, for any structure on a lot, containing exclusively the following residential uses: Townhouse development, Section 4.31 d; Elderly oriented congregated housing, Section 4.31 e; Multifamily dwelling, Section 4.31 g.

Councillor Davis moved referral of the proposed amendment to the full City Council with a favorable recommendation, and the motion carried on a voice vote.

The hearing was adjourned on motion of Councillor Sullivan at 6:54 p.m.

For the Committee,



Councillor Francis H. Duehay

**AMENDMENTS TO THE ZONING ORDINANCE
OF THE CITY OF CAMBRIDGE
RECOMMENDED BY THE PLANNING BOARD 7/16/96**

A. Listing of Special Permits in the Central Square and Harvard Square Overlay Districts subject to the Incentive Zoning Provisions - Section 11.200

Explanation Section 10.48 (the section of the Zoning Ordinance that sets out general rules governing issuance of special permits) and Section 11.200 (the detailed provisions of the city's incentive zoning ordinance) are meant to have parallel listings of those special permits that trigger the provisions of Section 11.200, i.e. the payment of a fee to the Affordable Housing Trust for each square foot of development authorized by the special permit, above 30,000 square feet. In adopting the Central Square Overlay District, the new special permits created that are subject to the incentive zoning requirements were listed in 10.48 but not in 11.200. This amendment lists the permits in Section 11.200 as well.

When the Incentive Zoning Provisions were adopted in 1988, a number of previously existing special permits in the Harvard Square Overlay District were made subject to the new ordinance. At that time, however, the special permit waiver of setback requirements was overlooked. As this provision differs little from other incentive provisions in the Harvard Square Overlay District that are subject to Section 11.200, it is logical to correct that omission. Therefore, this special permit is added to the list of permits subject to Section 11.200.

The Amendment

Amend the text of the Zoning Ordinance by deleting existing Sections 10.48 and 11.202 in their entirety and substituting therefor the following:

- 10.48 As expressly authorized in Section 9 of the Zoning Act, M.G.L., Ch 40A, the following Special Permits, which authorize increases in the permissible density of population or intensity of a particular use in the proposed development, shall be subject to the provisions of Section 11.200 of this Ordinance.
- Section 6.35 Reduction in required parking for nonresidential development
- Section 11.108 Divergence from dimensional requirements, Massachusetts Avenue Overlay District
- Section 11.54.2(2) Additional height, Harvard Square Overlay District
- Section 11.54.4(2) Waiver of parking and loading requirements, Harvard Square Overlay District

Section 11.54.5(b)	Exemption from yard requirements, Harvard Square Overlay District
Section 11.63.5	Parkway Overlay District
Section 11.63.7	Divergence from dimensional requirements, Parkway Overlay District
Section 11.304.2(b),(c)	Additional height, Central Square Overlay District
Section 11.304.4	Waiver of setback requirements, Central Square Overlay District
Section 11.304.6	Waiver of parking requirements, Central Square Overlay District
Article 13.000	PUD Districts, all permits
Section 17.13.1(b)	Additional FAR, Special District I
Section 17.17	Transfer of development rights, Special District I

11.202

Applicability. Where a developer chooses to seek to obtain a special permit pursuant to the sections listed below, which special permit authorizes an increase in the permissible density of population or intensity of a particular use in the proposed development, the developer shall be subject to the provisions of this Section 11.200 et al. Increases in density or intensity of use shall include an increase in gross floor area or height, a reduction or waiver of parking requirements, or a change in dimensional requirements or the addition of uses that result in an increase in density or intensity of use.

Section 6.35	Reduction in required parking for nonresidential development
Section 11.108	Divergence from dimensional requirements, Massachusetts Avenue Overlay District
Section 11.54.2(2)	Additional height, Harvard Square Overlay District
Section 11.54.4(2)	Waiver of parking and loading requirements, Harvard Square Overlay District
Section 11.54.5(b)	Exemption from yard requirements, Harvard Square Overlay District
Section 11.63.5	Parkway Overlay District
Section 11.63.7	Divergence from dimensional requirements, Parkway Overlay District

Section 11.304.2(b),(c)	Additional height, Central Square Overlay District
Section 11.304.4	Waiver of setback requirements, Central Square Overlay District
Section 11.304.6	Waiver of parking requirements, Central Square Overlay District
Article 13.000	PUD Districts, all permits
Section 17.13.1(b)	Additional FAR, Special District I
Section 17.17	Transfer of development rights, Special District I

B. Clarification of language relating to location of parking spaces adjacent to dwellings and side lot lines.

Explanation

1. Paragraph a, adopted in 1981, is intended to allow the parking of automobiles somewhat closer to one, two and three family dwellings than is required for all other dwellings and uses, which are required to be set back at least ten (10) feet. The language, however, has been interpreted to mean that no setback at all is required, when at least a five foot setback was intended. The language modifications are meant to restore the original intent of the provision.

2. Paragraph b, also adopted in 1981, eliminates the side and rear yard setbacks for parking spaces and driveways on lots with three or fewer units in pre-existing buildings. It recognizes that desirable parking would be difficult to locate on lots densely develop before the parking requirement was established and therefore relaxes the setback standards somewhat for small dwellings. Dense development, however, is not typically the prevailing condition in the A-1 and A-2 residential districts, where large lots and wide yards are required and routinely provided even in long developed lots. Therefore, this amendment would not grant the waiver of the five foot setback requirement for any dwellings in the Residence A districts; other changes are meant to clarify the original language.

The Amendment

Amend the Text of the Zoning Ordinance in Subsection 6.44.1 by deleting paragraphs (a) and (b) in their entirety and substitute therefor the following:

- 6.44.1 (a) No on grade open parking space shall be located closer than ten (10) feet to that portion of a building wall containing windows of habitable or occupiable rooms at basement or first story. However, on grade open parking spaces serving one, two, or three family dwellings may be located closer than ten (10) feet, but in no case closer than five (5) feet, of that portion of such

building wall.

6.44.1

(b)

Except for dwellings that: (1) contain no more than three dwelling units, (2) were in existence at the time of the effective date of this Ordinance or any amendment thereto, and (3) are not located in any Residence A-1 or A-2 Residence District, no on grade open parking space or driveway shall be located closer than five (5) feet to any side or rear property line.

C. Alteration in the language defining the basement and cellar areas that are excluded from the Floor Area Ratio restrictions of the Zoning Ordinance

***Explanation** Basements and attics have routinely been exempt from Gross Floor Area (GFA) calculations when their dimensions are such that they are not easily useable for occupancy and/or where the volume of the excluded portions was modest and did not contribute to a significant increase in the perceived bulk of the building from the public street or from abutting lots. However, the current language has made it possible to circumvent the intent of these provisions and construct perfectly useable, habitable (as defined by the Building Code) living space in excess of the limits the FAR standard in each zoning district is intended to impose.*

For instance, in both basements and attics, easily removable "finished ceilings" can be installed to meet the dimensional standards for exemption; removal of those ceilings creates habitable space that otherwise would be required to be counted as GFA. Basements (defined as a floor, any portion of which is below grade) have been routinely constructed where only inches of the space have been below finished grade; the result has been "basement space" essentially fully out of the ground and contributing considerably to the perceived bulk of new construction and containing space, like recreation rooms, that the Building Code allows to be occupied. Townhouse developments in particular have employed these devices to create additional and quite useable living space, and additional bulk.

This amendment is meant to restore the original intent of these provisions by doing the following:

** Taking the relevant ceiling height measurement from a permanent element of the building's structure, i.e. roof rafters or floor joists.*

** In the case of basements and cellars, reducing the measured ceiling height from less than 7'3" to less than 7', and further requiring that no more than four feet of that height be above the finished mean grade.*

The Amendment

Amend, in Article 2.000, the definition of "Gross Floor Area shall include" and "Gross Floor Area shall not include", paragraphs (d), (7) and (8) by deleting the existing paragraphs and substituting therefor the following:

Gross Floor Area shall include:

- (d) Attic space, whether finished or unfinished, within the area of a horizontal plane that is five (5) feet above the attic floor and which touches the side walls and/or the underside of the roof rafters and which is not excluded in (5) below.

Gross Floor Area shall not include:

- (7) attic space not otherwise included in (d) above.
- (8) Basement and cellar spaces with less than seven feet of ceiling height measured from the floor to the line of the bottom of the floor joists, or to any subfloor or finished surface above any floor joists that are spaced not less than (4) feet on center, and further provided that the [REDACTED]

D. Clarification of the process by which townhouses are altered after they are first occupied and subdivided.

***Explanation** The existing 11.15, which sets out the dimensional requirements applicable to townhouse developments, is unclear as to how changes to townhouses should be regulated after construction and after the development has been subdivided into lots, and after many owners have acquired interest in the property. The lack of clarity has complicated interpretation of the regulations when the allocation of residual Gross Floor Area among multiple lot owners is necessary; the construction of decks, additions, bay windows is proposed; or the loss of open space as a result of such changes arises. Further the policy question is raised as to what the appropriate role of owners of lots in the townhouse development should be when fellow owners propose changes in often tight physical circumstances.*

This amendment defines how dimensional requirements are to be applied to subdivided lots (to the new subdivided lot lines) and how changes to townhouses are to be reviewed (through a special permit review by the Planning Board or the Board of Zoning Appeal when the dimensional standards cannot be met). Certain limited alterations, like bay windows, are allowed to proceed without a special permit.

The Amendment

Amend the text of the Zoning Ordinance of the City of Cambridge by deleting the existing Section 11.15 and substituting therefor the following.

11.15 Dimensional Standards for Townhouse Development

The following development controls apply to the parcel of land upon which a townhouse development is constructed and are not applicable to the initial subdivision of the townhouse parcel into individual lots. The townhouse development parcel as a whole must conform to these controls. But once satisfied for the total parcel, the controls are waived for the subsequent subdivision into individual lots. The required minimum lot size for a townhouse

development shall conform to the existing regulations for the district in which the townhouse development is constructed.

However, modifications to the townhouse development after a subdivision plan has been recorded in the Registry of Deeds shall be subject to the dimensional standards as set forth in this Section 11.15 applied to the individual lot lines of the subdivided lots; modifications that do not so conform may be permitted as set forth below:

a. For any townhouse development, after issuance of a building permit, projecting eaves, chimneys, bay windows, and balconies that do not project more than three and one half (3 1/2) feet.

b. For any townhouse development for which a special permit has been granted by the Planning Board, modifications specifically enumerated in the special permit. For those modifications not so enumerated, or where the special permit fails to specifically enumerate allowed modifications, after issuance of a new special permit (a Major Amendment to the original special permit) by the Planning Board to allow the proposed modification(s).

c. For any townhouse development originally constructed as of right, after issuance of a special permit by the Board of Zoning Appeal.

Where a special permit is required in paragraphs b. and c. above, all owners of lots that together constitute the original townhouse development parcel shall receive notice of the special permit public hearing, in the manner provided for in Chapter 40A for parties in interest; such owners shall be considered parties in interest, however, only as they are so defined in Section 11, Chapter 40A.

E. Limitation on the scope of the special permit setback exception in the Residence C-2B District

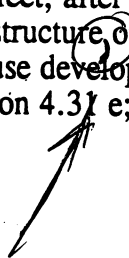
Explanation When the Residence C-2B District was created in 1986, it retained most of the use and dimensional characteristics of the Residence C-2 district, except that the height was reduced from 85 feet to 45 feet. Because the volume of permitted building (Floor Area Ratio) was not altered, it was deemed desirable to grant some flexibility in the front and side setbacks required so that shorter buildings might be more appropriately sited on some lots. That flexibility is provided through a special permit from the Planning Board, to reduce the front yard to no less than ten feet and the side yards to no less than 20 feet. When the Residence C-2B District was applied to the Youville Hospital site, there was concern expressed that this potential to reduce the required setbacks might allow hospital buildings to be placed too close to homes on Leonard Avenue. To eliminate that possibility the amendment would not permit the application of the special permit reduction of front and side yards to any structure on a lot that is not exclusively used for residential purposes.

The Amendment

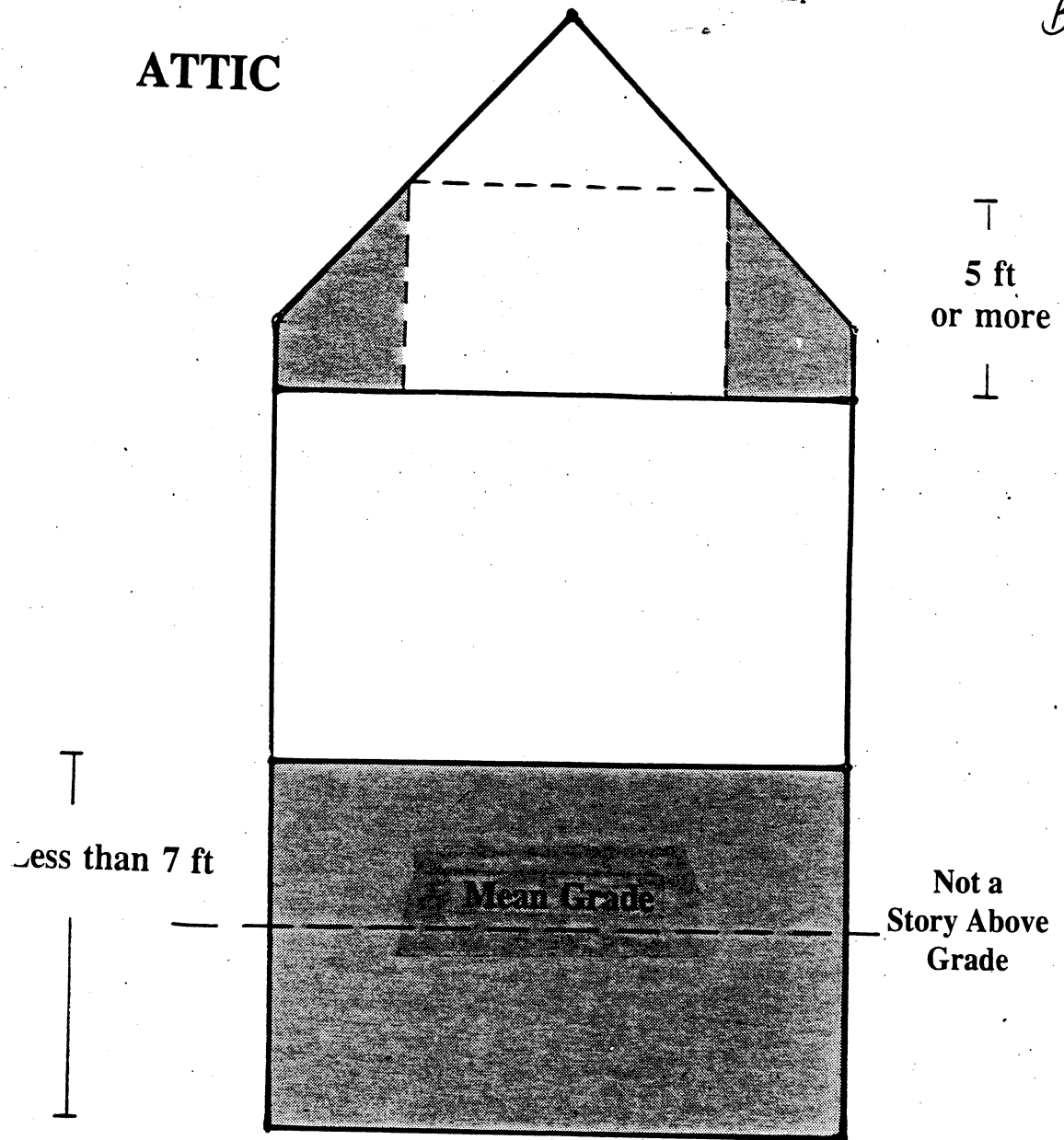
Amend the text of the Zoning Ordinance Article 5.000, by deleting Section 5.31,

Subsection 3, paragraph d in its entirety and substituting therefor the following:

3. Setback exceptions

- (d) In a Residence C-2B district the required front yard may be reduced to a minimum of ten (10) feet and the required side yard may be reduced to a minimum of twenty (20) feet, after the issuance of a special permit from the Planning Board, for any structure on a lot containing exclusively the following residential uses: Townhouse development, Section 4.31 d; Elderly oriented congregate housing, Section 4.31 e; Multifamily dwelling, Section 4.31 g.
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ATTIC



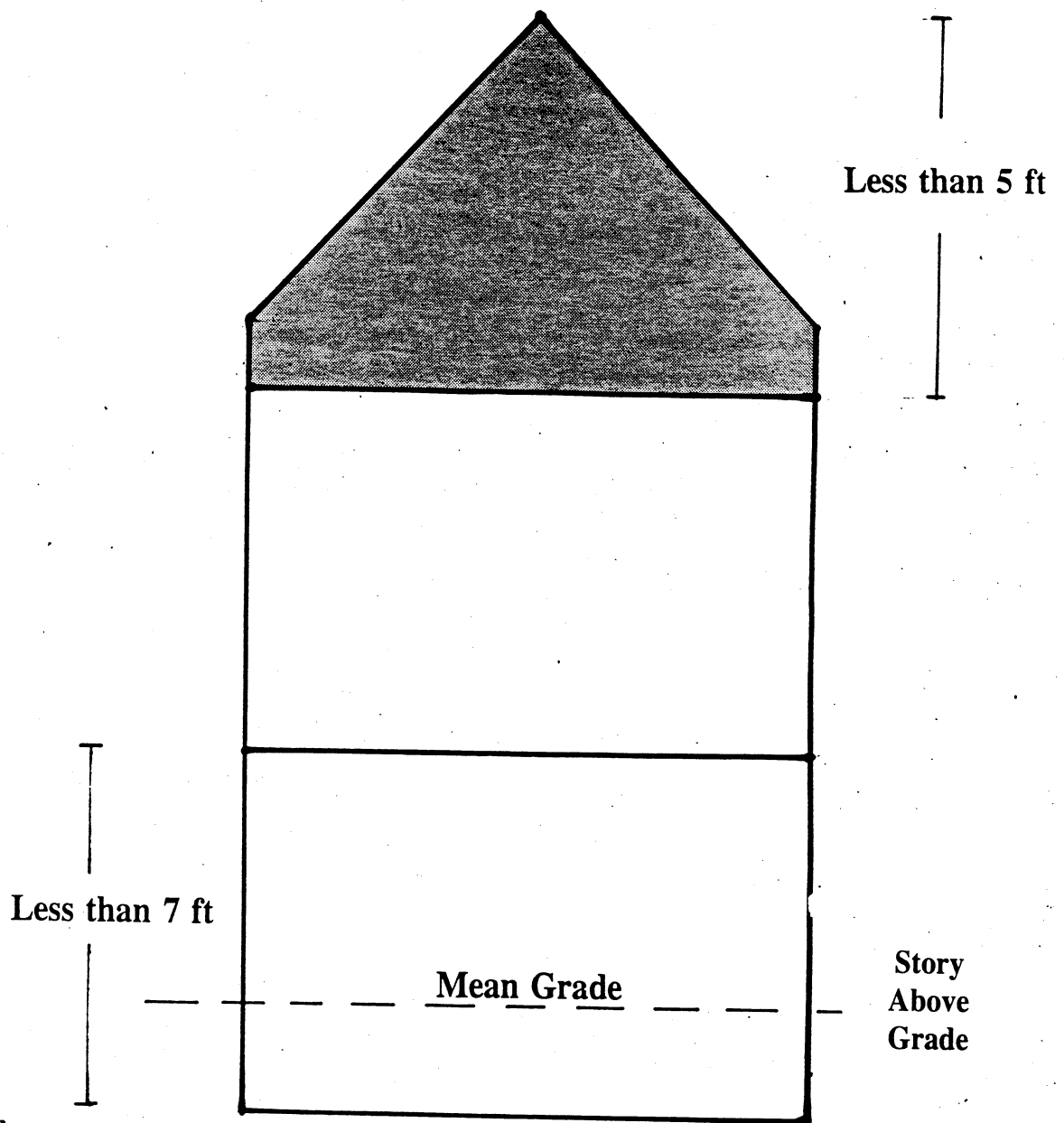
BASEMENT/CELLAR

BASIC PROVISIONS (exempt space shaded)

Attic: Any portion of an attic having a height (to the rafters) of less than five (5) feet is not included in the Gross Floor Area calculation.

Basement/Cellar: Two standards must be met for a basement or cellar space to be excluded from the Gross Floor Area calculation.

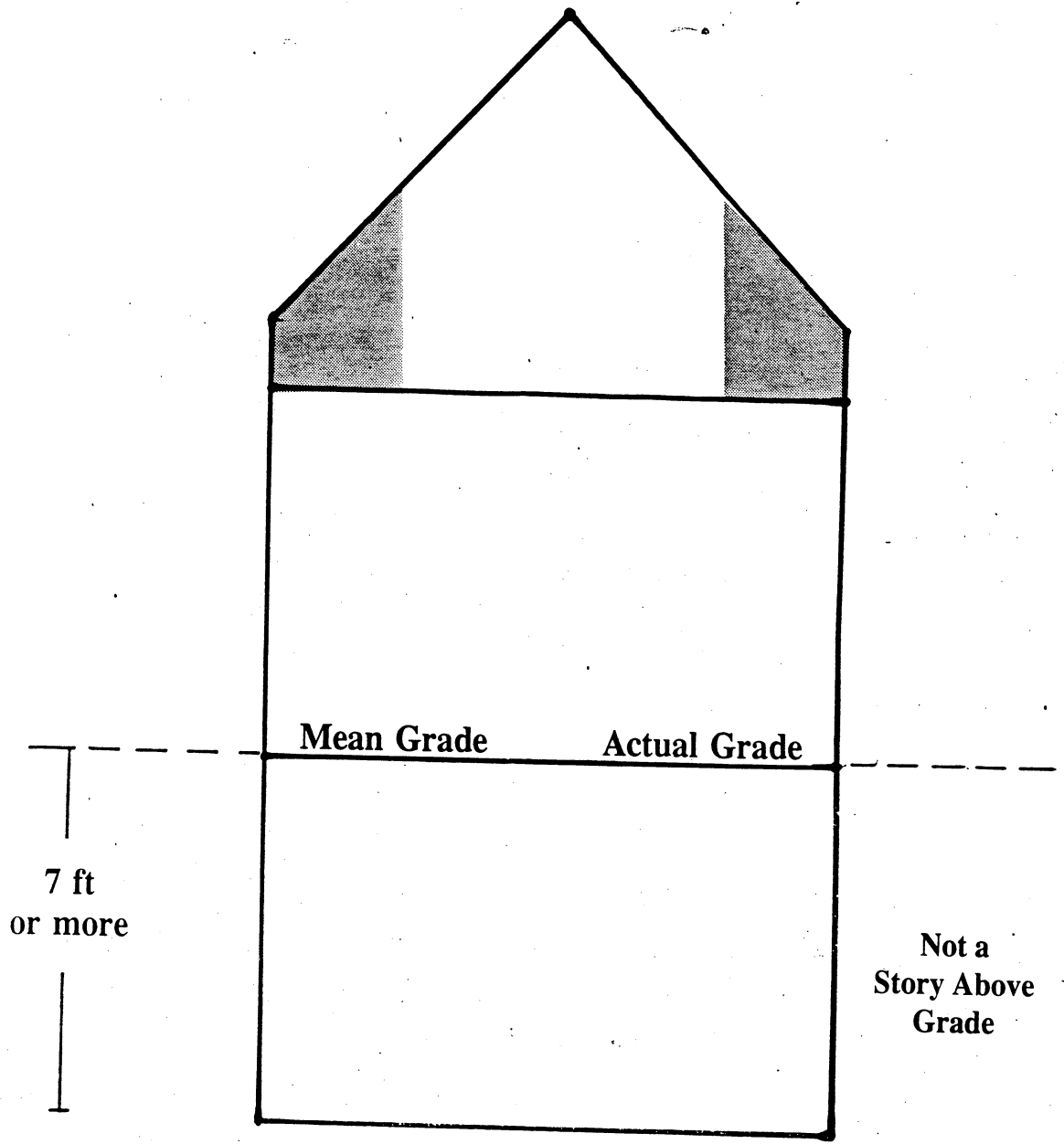
1. The height from floor to floor joists must be less than seven (7) feet, and
2. The basement is not considered a "Story above grade" by the building code.



VARIATION #1

Attic: All attic space is excluded from the Gross Floor Area calculation if the distance from floor to topmost rafter is less than five (5) feet.

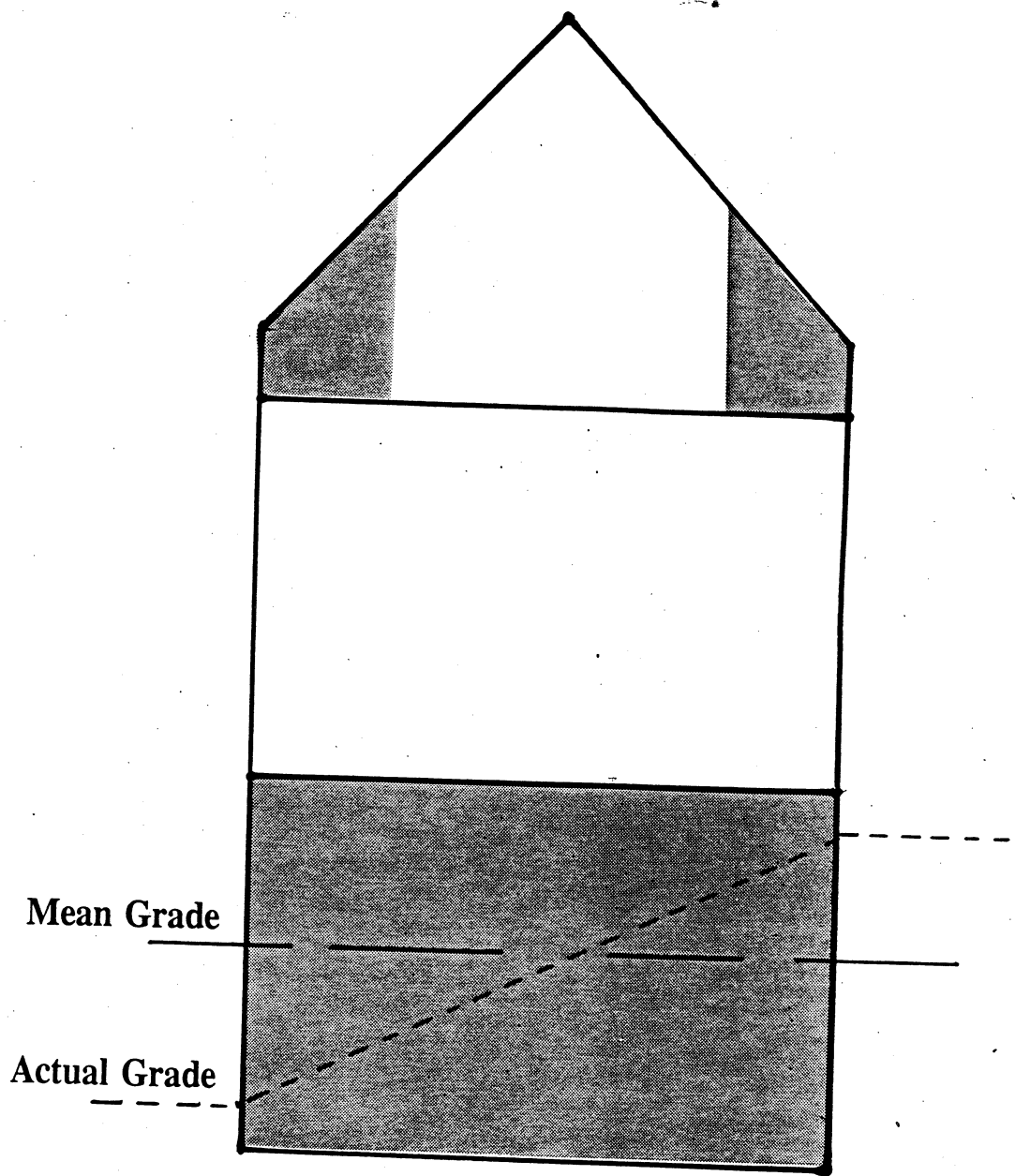
Basement/Cellar: A basement space having a height less than seven (7) feet must still be included in the Gross Floor area Calculation if it is also considered a "Story above grade" by the building code.



VARIATION #2

Attic: As illustrated in the basic provisions.

Basement/Cellar: A basement space located totally below actual grade will be included in the Gross Floor Area calculation if the floor to floor joist height is seven feet or more.



MEAN GRADE VS ACTUAL GRADE

All height measurements are made from the mean finished grade abutting the new structure. The actual conformation of the grade adjacent to the building may be quite variable, however, with portions of the basement space fully exposed and portions totally below ground.

Committee Report #1

5-647

A report was received for a meeting held on November 12, 1996 for the purpose of considering technical amendments to the Zoning Ordinance proposed by the Planning Board.

In City Council December 16, 1996

Report accepted.
Placed on file.
Zoning Amendment
passed to a second
reading on motion
of Councillor Hubkey.