



CITY OF NEW BEDFORD  
JONATHAN F. MITCHELL, MAYOR

# ***New Bedford Comprehensive Zoning Code Review***

## ***Code of Ordinances – Chapter-9***

619-621 SUMMER STREET – PLOT: 90 – LOT: 161 – ZONED DISTRICT: MUB

**Special Permit & Variance Required from the Zoning Board of Appeals**

***Zoning Code Review as follows:***

### ***Special Permit***

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#### **❖ SECTIONS**

- 2300 – ACCESSORY BUILDING & USES
- 2310 – GENERAL
- 2325
- 5300-5330 & 5360-5390

### ***Variance***

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#### **❖ SECTION**

- 2700 – DIMENSIONAL REGULATIONS
- 2710 – GENERAL
- 2720 – TABLE OF DIMENSIONAL REQUIREMENTS APPENDIX-B  
(REFERANCE THE FOLLOWING SECTION IN APPENDIX-B)
  - LOT SIZE
  - LOT FRONTAGE
  - FRONT YARD
  - SIDE YARD
  - REAR YARD
- 2750 – YARDS IN RESIDENCE DISTRICTS
- 2751 – FRONT YARD
- 2752
- 2753
- 2754
- 2755 – SIDE YARD



City of New Bedford, Massachusetts  
 Building Department  
 Application for Plan Examination  
 and Building Permit

01-9  
 5/24/14

FOR BUILDING DEPT. USE

DATE RECEIVED: \_\_\_\_\_

RECEIVED BY: 11/13/14

ISSUED BY: \_\_\_\_\_

IMPORTANT — COMPLETE ALL ITEMS — MARK BOXES WHERE APPLICABLE — PRINT

Permit # \_\_\_\_\_  
 Completion Date \_\_\_\_\_

(AT LOCATION) 619 - 621 Summer St.  
 (NO) (STREET)  
 BETWEEN \_\_\_\_\_ AND \_\_\_\_\_  
 (CROSS STREET) (CROSS STREET)  
 PLOT 90 LOT 161 DISTRICT M03 ACCEPTED STREET Yes  
 PLANS FILED.  YES  NO

II. TYPE AND COST OF BUILDING - all applicants complete parts A through D - PRINT

A. TYPE OF IMPROVEMENT

- 1  New Building
- 2  Addition (if residential, enter number of new housing units added, if any, in Part D.14)
- 3  Alteration (if residential, enter number of new housing units added, if any, in Part D.14; if non-residential, indicate most recent use checking D-18 - D-32)
- 4  Repair, replacement
- 5  Demolition (if multifamily residential, enter number of units in building in Part D.14, if non-residential, indicate most recent use checking D-18 - D-32)
- 6  Moving (relocation)
- 7  Foundation only

*Change of use  
 2 Commercial  
 spaces to  
 residential*

PROPOSED USE - For demolition most recent use

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>13 <input type="checkbox"/> Residential One family</li> <li>14 <input checked="" type="checkbox"/> Two or more family - Enter number of units _____</li> <li>15 <input type="checkbox"/> Transient hotel, motel, or dormitory - Enter number of units _____</li> <li>16 <input type="checkbox"/> Garage</li> <li>17 <input type="checkbox"/> Carport</li> <li>18 <input type="checkbox"/> Other - Specify _____</li> </ul> | <ul style="list-style-type: none"> <li>19 <input type="checkbox"/> Nonresidential Amusement, recreational</li> <li>20 <input type="checkbox"/> Church, other religious</li> <li>21 <input type="checkbox"/> Industrial</li> <li>22 <input type="checkbox"/> Parking garage</li> <li>23 <input type="checkbox"/> Service station, repair garage</li> <li>24 <input type="checkbox"/> Hospital, institutional</li> <li>25 <input type="checkbox"/> Office, bank, professional</li> <li>26 <input type="checkbox"/> Public utility</li> <li>27 <input type="checkbox"/> School, library, other educational</li> <li>28 <input type="checkbox"/> Stores, mercantile</li> <li>29 <input type="checkbox"/> Tanks, towers</li> <li>30 <input type="checkbox"/> Funeral homes</li> <li>31 <input type="checkbox"/> Food establishments</li> <li>32 <input type="checkbox"/> Other - Specify _____</li> </ul> |
|---|--|

B. OWNERSHIP

- 8  Private (individual, corporation, nonprofit institution, etc.)
- 9  Public (Federal, State, or local government)

D.2. Does this building contain asbestos?

- YES  NO If yes complete the following:  
 Name & Address of Asbestos Removal Firm: \_\_\_\_\_

Submit copy of notification sent to DEDE and the State Dept. of Labor & Industries and results of air sample analysis after asbestos removal is completed.

D.3. Non-residential - Describe in detail proposed use of buildings, e.g., food processing plant, machine shop, laundry building at hospital, elementary school, secondary school, college, parochial school, parking garage for department store, rental office building, office building at industrial plant. If use of existing building is being changed, enter proposed use.

C. COST

- 10. Cost of construction \$20K (omit cents)  
 To be installed but not included in the above cost
  - a. Electrical \_\_\_\_\_
  - b. Plumbing \_\_\_\_\_
  - c. Heating, air conditioning \_\_\_\_\_
  - d. Other (elevator, etc.) \_\_\_\_\_
- 11. TOTAL VALUE OF CONSTRUCTION \_\_\_\_\_
- 12. TOTAL ASSESSED BLDG. VALUE \_\_\_\_\_

III. SELECTED CHARACTERISTICS OF BUILDING - For new buildings complete part E through I. For demolition, complete only parts G, H & I. For all others, (additions, alterations, repair, moving, foundation), complete E through I.

E. PRINCIPAL TYPE OF FRAME

- 33  Masonry (wall bearing)
- 34  Wood frame
- 35  Structural steel
- 36  Reinforced concrete
- 37  Other - Specify \_\_\_\_\_

G. TYPE OF SEWAGE DISPOSAL

- 43  Public or private company
- 44  Private (septic tank, etc.)

J. DIMENSIONS

- 53 Number of stories 1
- 54 Height \_\_\_\_\_
- 55 Total square feet of floor area, all floors based on exterior dimensions \_\_\_\_\_
- 56 Building length \_\_\_\_\_
- 57 Building width \_\_\_\_\_
- 58 Total sq. ft. of bldg. footprint \_\_\_\_\_
- 59 Front lot line width \_\_\_\_\_
- 60 Rear lot line width \_\_\_\_\_
- 61 Depth of lot \_\_\_\_\_
- 62 Total sq. ft. of lot size \_\_\_\_\_
- 63 % of lot occupied by bldg. (56+62) \_\_\_\_\_
- 64 Distance from lot line (front) \_\_\_\_\_
- 65 Distance from lot line (rear) \_\_\_\_\_
- 66 Distance from lot line (left) \_\_\_\_\_
- 67 Distance from lot line (right) \_\_\_\_\_

H. TYPE OF WATER SUPPLY

- 45  Public or private company
- 46  Private (well, cistern)

F. PRINCIPAL TYPE OF HEATING FUEL

- 38  Gas
- 39  Oil
- 40  Electricity
- 41  Coal
- 42  Other - Specify \_\_\_\_\_

I. TYPE OF MECHANICAL

- Is there a fire sprinkler system?
  - 47  YES 48  NO
- Will there be central air conditioning?
  - 49  Yes 50  No
- Will there be an elevator?
  - 51  Yes 52  No

**IX. HOMEOWNER LICENSE EXEMPTION**

Supplement #1

The current exemption for "homeowner" was extended to include owner-occupied dwellings of two units or less and to allow such homeowners to engage an individual for hire who does not possess a license, provided that the owner acts as supervisor. (State Building Code Section 110.5)

**DEFINITION OF HOMEOWNER:**

Person(s) who own a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a one to two family dwelling, attached or detached structures accessory to such use and /or farm structures. A person who constructs more than one home in a two-year period shall not be considered a homeowner. Such "homeowner shall submit to the Building Official, on a form acceptable to the Building Official, that he/she shall be responsible for all such work performed under the building permit. (Section 110.5)

The undersigned "homeowner assumes responsibility for compliance with the State Building Code and other applicable codes, ordinance, rules and regulations, and will comply with the City of New Bedford Building Department minimum inspection procedures and requirements.

HOMEOWNERS SIGNATURE \_\_\_\_\_

*[Handwritten Signature]*

**X. CONSTRUCTION DEBRIS DISPOSAL**

Supplement #2

In accordance with provisions of Massachusetts General Law C40, S54, debris resulting from this work shall be disposed of in a properly licensed solid waste disposal facility as defined by Massachusetts General Law C111, S150A

The debris will be disposed of in: FRAGE'S DISPOSED  
(Location of Facility)

Signature of Permit Applicant \_\_\_\_\_

*[Handwritten Signature]*

Date \_\_\_\_\_

6/27/14

**XI. HOME IMPROVEMENT CONTRACTOR LAW AFFIDAVIT**

(Residential Use Only) Supplement to Permit Application

Supplement #3

MGLC, 142 A requires that the "reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, demolition, or construction of an addition to any pre-existing owner-occupied building containing at least one but not more than four dwelling units... or to structures which are adjacent to such residence of building" be conducted by registered contractors, with certain exceptions, along with other requirements.

Type of Work: CHANGE OF USE FROM COMMERCIAL TO 2 SINGLE UNITS Est. Cost \$30000

Address of Work: 619-621 SUMNER ST

Owner Name: José F. Menz Date of Permit Application: 6/27/14

I hereby certify that: Registration is not required for the following reason(s):

Work excluded by law     Job under \$1,000     Building not owner-occupied     Owner obtaining own permit

Other (specify) \_\_\_\_\_

Notice is hereby given that:

**OWNERS OBTAINING THEIR OWN PERMIT OR EMPLOYING UNREGISTERED CONTRACTORS FOR APPLICABLE HOME IMPROVEMENT WORK DO NOT HAVE ACCESS TO THE ARBITRATION PROGRAM OF GUARANTY FUND UNDER MGLC. 142A.**

signed under penalties of perjury:

I hereby apply for a permit as the agent of the owner.

Date \_\_\_\_\_ Contractor Signature \_\_\_\_\_

Registration No. \_\_\_\_\_

OR:  
Notwithstanding the above notice, I hereby apply for a permit as the owner of the above property:

Date 6/27/14 Owner Signature \_\_\_\_\_

**XII. BUILDING COMMISSIONERS REVIEW COMMENTS AND CONDITIONS**

C. Building Permit Rejected  SPECIAL PERMIT AND VARIANCE - ZBA

Reason For Rejection:

SEE ATTACHMENTS

Fee \_\_\_\_\_

Permit # \_\_\_\_\_

Comments and Conditions:

Signed [Handwritten Signature] Date: \_\_\_\_\_ 20\_\_\_\_

Title \_\_\_\_\_  
Not valid unless signed (not stamped) by Building Commissioner

OTHER APPLICABLE REVIEW

K. FLOODPLAIN

Is location within flood hazard area? yes no

If yes, zone : \_\_\_\_\_ and base elevation \_\_\_\_\_

L. WETLANDS PROTECTION

Is location subject to flooding? \_\_\_\_\_

Is location part of a known wetland? \_\_\_\_\_

Has local conservation commission reviewed this site? \_\_\_\_\_

IV. IDENTIFICATION - ALL APPLICANTS - PLEASE PRINT

OWNER OR LESSEE NAME	MAILING ADDRESS	ZIP CODE	TELEPHONE NO.
J. MENIL Realty LLC Joseph F. MENIL	188 ADAMS ST. New Bedford	MA 02746	508-989-2712
CONTRACTOR NAME	MAILING ADDRESS	ZIP CODE	TELEPHONE NO.
		LICENSE #	
		HOME IMP #	
ARCHITECT NAME	MAILING ADDRESS	ZIP CODE	TELEPHONE NO.
		LICENSE #	
SIGNATURE OF OWNER	APPLICANT SIGNATURE	DATE	
		6/27/14	

Omission of reference to any provision shall not nullify any requirement of this code nor exempt any structure from such requirement.

The applicants understands and warrant that they will comply with all pertinent federal and state statutes, local ordinances and all federal, state, and local regulations, including those of the Architectural Barriers board, Department of Environmental Protection Agency and may be forwarded for review to all pertinent local city agencies which may express specific concerns. It is understood that the issuance of a permit shall not serve as an acceptance or acknowledgment of compliance nor exempt any structure from such requirement. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel, or set aside any of the provisions of the State Building Code or local code of ordinances, except as specifically stipulated by modification or legally granted variation in accordance with Section 122.0 of State Building Code or local code of ordinances.

I have read the above and sign under pain and penalty of perjury as to the truth of all of the information and statements contained in sections I through IV of this application.

188 ADAMS ST NB 02746 New Bedford  
 Applicant's Signature Address City

(Ord. of 12-23-03, § 1)

**State law references:** Zoning districts generally, M.G.L.A. c. 40A, § 4.

## **2200. USE REGULATIONS.**

2210. General. No structure shall be erected or used or land used except as set forth in Section 2230, "Table of Use Regulations", unless otherwise provided by this Ordinance or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a lot, except in accordance with Section 2330.

Symbols employed below shall mean the following:

Y - A permitted use.

N - An excluded or prohibited use.

BA - A use authorized under special permit from the Board of Appeals as provided under Section 5300.

CC - A use authorized under special permit from the City Council as provided under Section 5300.

PB - A use authorized under special permit from the Planning Board as provided under Section 5300.

2220. Applicability. When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

2230. Table of Use Regulations. See Appendix A.

(Ord. of 12-23-03, § 1)

## **2300. ACCESSORY BUILDINGS AND USES.**

2310. General. Any use permitted as a principal use is also allowed as an accessory use, as are others customarily accessory and incidental to permitted principal uses. Accessory uses are permitted only in accordance with lawfully existing principal uses. An accessory use may not, in effect, convert a principal use to a use not permitted in the zoning district in which it is located. Where a principal use is permitted under special permit, its accessory use is also subject to the special permit. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 5400, shall also require site plan review and approval.

2320. Accessory Uses.

2321. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board of Appeals finds that the proposed use does not substantially derogate from the public good.

2322. Boarders in Single-Family Dwelling. The renting of rooms and/or furnishing of board to not more than two (2) persons in an owner occupied single-family dwelling by the owner/occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to three (3) or more persons in an owner occupied single-family dwelling by the owner/occupant thereof shall be deemed a boarding house subject to the provisions of Section 2230, herein.

2323. Family Day Care Homes. In all districts, family day care may be provided as an accessory

use upon the issuance of special permit by the Board of Appeals.

2324. In residence districts, by special permit from the Board of Appeals, off-street parking facilities for more than five (5) automobiles, provided that said parking facilities are on a lot directly across the street from the building they are intended to serve and that said parking facilities shall be used only by the occupants of the building and by persons visiting or doing business with said occupants.

2325. In residence districts, by special permit from the Board of Appeals, joint use of off-street parking facilities by buildings on contiguous lots provided that said parking facilities shall be used only by the occupants of the buildings they are intended to serve and by persons visiting or doing business with said occupants.

(Ord. of 12-23-03, § 1)

#### 2330. Accessory Structures.

2331. Private Garages. Where a private garage constitutes an attached part of the principal dwelling, the minimum setback, side yard and rear yard requirements of the district shall be provided. Where the private garage is detached and accessory, the garage shall be at least ten (10) feet from the principal building, except for garages which meet the fire rating standards of the Massachusetts Building Code for attached garages, in which case the separation requirement is waived. Side yard requirements for detached accessory garages shall be the same as for the principal dwelling. The minimum distance from the rear lot line for detached garages shall be four (4) feet.

2332. Accessory buildings or structures, including private garages, may occupy in the aggregate not over forty (40) percent of the required rear yard area.—

2333. Accessory buildings or structures shall not be erected over eighteen (18) feet in height, as measured from the mean average grade of the proposed location of the structure, prior to construction.

2334. No part of such accessory buildings or structures shall be located within thirty (30) feet of the street line on which the principal structure fronts, and, if located within fifty (50) feet from the front street line of the lot, no part of such buildings or structures shall be located within twelve (12) feet of any side lot line intersecting such street. If located in excess of fifty (50) feet from the front street line, the side yard setback shall conform to the requirements of the principal dwelling.

2335. In the case of corner lots less than fifty (50) feet in width, a garage not over twenty-four (24) feet in depth may be placed at the rear of the lot to comply with Section 2334 as nearly as possible, provided that in no case shall the said garage be located less than twenty (20) feet from the street line bounding the longer side of the lot and not less than twelve (12) feet from the lot line intersecting said street line. Such restriction may be waived by mutual agreement between the adjoining property owners, secured by and filed with the Inspector of Buildings.

2336. No trailer shall be occupied for dwelling or sleeping purposes within any residential district, except as allowed pursuant to M.G.L.A. 40A, § 3. A trailer may be permitted to locate within any district other than a residential district provided a special permit is granted by the City Council after a public hearing, upon a finding that the placement and occupancy of the trailer will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 5300 herein.

2337. The initial term and subsequent terms of a special permit for a trailer shall expire after two (2) years. In the event such special permit is renewed, after a public hearing, upon a finding that the placement and occupancy of the trailer will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 5300 herein, the City Council shall promptly notify the Inspector of Buildings. Subsequent special permit issuances for existing trailers, if any, shall be granted after certification by affidavit is made by the applicant

SECTION 1000. PURPOSE, AUTHORITY, AND DEFINITIONS.

5224. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L.A. c. 40B, §§ 20—23.

(Ord. of 12-23-03, § 1)

5230. **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.

(Ord. of 12-23-03, § 1)

5240. **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

(Ord. of 12-23-03, § 1)

**State law reference—** Zoning board of appeals, M.G.L.A. c. 40A, § 14 et seq.

5300. SPECIAL PERMITS.

5310. **Special Permit Granting Authority.** The Zoning Board of Appeals, the Planning Board or the City Council shall act as the Special Permit Granting Authority under this Chapter as specifically designated in a particular Section or in accordance with the Specific Designations in the Table of Principal Use Regulations under Appendix A of this Chapter.

(Ord. of 12-23-03, § 1; Ord. of 12-8-05, § 1)

5320. **Criteria.** Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the City and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:

5321. Social, economic, or community needs which are served by the proposal;

5322. Traffic flow and safety, including parking and loading;

5323. Adequacy of utilities and other public services;

5324. Neighborhood character and social structures;

5325. Impacts on the natural environment; and

5326. Potential fiscal impact, including impact on City services, tax base, and employment.

(Ord. of 12-23-03, § 1)

5330. **Procedures.** Applications for special permits shall be filed in accordance with the rules and regulations of the various special permit granting authorities, as may be applicable.

(Ord. of 12-23-03, § 1)

5340. **Plans.** An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 5400, herein.

(Ord. of 12-23-03, § 1)

SECTION 1000. PURPOSE, AUTHORITY, AND DEFINITIONS.

- (f) Schools: Project the increase to the student population for nursery, elementary, junior high school, and high school levels, also indicating present enrollment in the nearest public schools serving these categories of students.

5355. Phasing. Where development of the site will be phased over more than one year, indicate the following:

- (a) Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.
- (b) Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

(Ord. of 12-23-03, § 1)

5360. **Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this Ordinance.

(Ord. of 12-23-03, § 1)

5370. **Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within twelve (12) months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L.A. c. 40A, § 17, from the grant thereof) with the City Clerk.

(Ord. of 12-23-03, § 1)

5380. **Regulations.** The special permit granting authority may adopt rules and regulations for the administration of this Section.

(Ord. of 12-23-03, § 1)

5390. **Fees.** The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

(Ord. of 12-23-03, § 1)

**State law reference**— Special permits, M.G.L.A. c. 40A, § 9.

**5400. SITE PLAN REVIEW.**

5410. **Purpose.** The purpose of this Section is to provide for individual detailed review of development proposals which have an impact on the natural or built environment of the City in order to promote the health, safety and general welfare of the community; to ensure adequate parking, safe and accessible pedestrian and vehicular circulation; and to minimize traffic impact on City streets.

(Ord. of 12-23-03, § 1)

5420. **Applicability.** The following types of activities and uses require site plan review by the Planning Board:



(Ord. of 12-23-03, § 1)

2520. Home Occupations by Special Permit. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by the owner of that dwelling upon the issuance of a special permit by the Board of Appeals; provided, however, that all of the following conditions shall be satisfied:

2521. The occupation or profession shall be carried on wholly within the principal building, or within a building or other structure accessory thereto, which has been in existence at least five (5) years, without extension thereof.

2522. Not more than thirty (30) percent of the combined floor area of the residence and any qualified accessory structures shall be used in the home occupation.

2523. Only one home occupation may be conducted on the premises.

2524. The home occupation may serve clients, customers, pupils, salespersons, or the like on the premises, if the Board of Appeals determines that the neighborhood will not be detrimentally affected.

2525. Not more than one person not a member of the household shall be employed on the premises in the home occupation.

2526. An unlighted sign of not more than three (3) square feet in area may be permitted. The visibility of exterior storage of materials and other exterior indications of the home occupation, or other variation from the residential character of the premises, shall be minimized through screening and other appropriate devices.

2527. Parking generated by the home occupation shall be accommodated off-street, other than in a required front yard, and such parking shall not occupy more than thirty-five (35) percent of lot area.

2528. The use or storage of hazardous materials in quantities greater than associated with normal household use shall be subject to design requirements to protect against discharge to the environment.

(Ord. of 12-23-03, § 1)

**State law references:** Existing structures, uses or permits, M.G.L.A. c. 40A, § 6.

## **2600. LOW-LEVEL RADIOACTIVE WASTE.**

2610. Low-level Radioactive Waste or Nuclear Waste Facilities. No facility may be located within the City of New Bedford, the primary purpose or principal activity of which is the commercial collection, processing, reprocessing, storage, burial, incineration, disposal or brokerage of radioactive wastes, including but not limited to waste classified as, low-level radioactive waste.

(Ord. of 12-23-03, § 1)

## **2700. DIMENSIONAL REGULATIONS.**

2710. General. No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this Section, unless exempted by this Ordinance or by statute.

2711. Lot change. No existing conforming or nonconforming lot shall be changed in size or shape except through a public land taking or donation for road widening, drainage, utility improvements or except where otherwise permitted herein, so as to violate the provisions of this

Ordinance with respect to the size of lots or yards or to create a nonconformity or increase the degree of nonconformity that presently exists.

2712. Merger of lots. Adjacent lots held in common ownership on or after the effective date of this Section shall be treated as a single lot for zoning purposes so as to minimize nonconformities with the dimensional requirements of this Ordinance. Notwithstanding the previous sentence, adjacent lots in common ownership may be treated as separate lots for zoning purposes upon a finding by the zoning enforcement officer that the owner of said lots has expressly exhibited the intent to maintain the lots as separate. In making said finding the zoning enforcement officer shall rely on the following factors:

2712.a. The existence and maintenance of walls or fences along the original lot lines;

2712.b. The fact that the lots are separately assessed for tax purposes;

2712.c. The placement of structures on the various lots.

The manner in which said lots were acquired or the fact that said lots were separately described on a deed shall not be considered by the zoning enforcement officer in making said finding.

2713. Recorded Lots. A lot or parcel of land having an area or frontage of lesser amounts than required in the following schedule of dimensional requirements may be considered as satisfying the area and frontage requirements of this Section provided such lot or parcel of land was shown on a plan or described in a duly recorded deed or registered at the time of adoption of this Ordinance and did not at the time of adoptions of adjoin other land of the same owner available for use in connection with such lot or parcel.

(Ord. of 12-23-03, § 1)

2720. Table of Dimensional Requirements. See Appendix B.

(Ord. of 12-23-03, § 1)

2730. Dimensional Variation. The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

(Ord. of 12-23-03, § 1)

2740. Vision Clearance on Corner Lots in Residence Districts. On a corner lot no fence, wall or structure more than three and one-half (3 1/2) feet high above the plane of the established grades of the streets shall be erected on a front or side yard herein established which is included within the street lines of the intersecting streets and a straight line connecting said street lines at points which are twenty (20) feet distant from their point of intersection, measured along said street line, and no trees or hedges which will materially obstruct the view of a driver of a vehicle approaching the street intersection shall be placed or maintained within such area.

(Ord. of 12-23-03, § 1)

2750. Yards in Residence Districts.

2751. Front Yards. No story or part of any building except projecting eaves or uncovered steps shall be erected nearer to the street line of any street on which it fronts than the average alignment of the corresponding stories or parts of existing buildings within two hundred (200) feet on each side of the lot and within the same block and district. Where there is a building on one or both of the adjoining lots, the front yard for a building shall have a depth equal to the average of the front yard depths of the two (2) adjoining lots. A lot without a building shall be

counted as having a front yard of the depth required by this Ordinance. If there are no existing buildings on the same side of the street, the average setback alignment of corresponding stories within two hundred (200) feet on each side of and directly opposite the lot shall govern. Nothing in this Ordinance shall require any story or part of a building to set back more than fifteen (15) feet from any street line. One street frontage of a corner lot shall be exempt from these provisions as provided in subsection 2752. The front yard of a lot shall remain clear of debris and junk.

2752. Where the alignment of a building is not controlled by subsection 2751, between every building and the line of the street upon which it fronts there shall be a front yard of a clear depth of fifteen (15) feet, except that on one side of a corner lot a yard of a clear depth of not less than ten (10) feet shall be provided, in which case this distance shall not be considered in determining the front yard depths on such street.

2753. Rear Yards. There shall be a rear yard on every lot and it shall be at least thirty (30) feet deep behind a dwelling, except that a ground story deck or porch, without a permanent roof, a patio, or a pool (including any projections therefrom) may extend to six (6) feet of a rear lot line. An unattached private garage or shed may extend to four feet of a rear yard. Unless referenced in this Code, nothing may be placed or constructed in or upon the ground within six (6) feet of a rear lot line. Notwithstanding the previous sentence, a fence may be constructed near or along a rear lot line and vegetation may also be planted within six (6) feet of a rear lot line.

2754. Where a lot is more than one hundred (100) feet deep, one-half ( 1/2) of the additional depth of the lot in excess of one hundred (100) feet shall be added to said rear yard depth; but in no case shall a rear yard depth in excess of forty (40) feet be required. The setbacks referenced in the previous section shall also apply to this Section.

2755. Side Yards. There shall be a side yard on every lot and it shall be at least <sup>TEN (10)</sup> eight (8) feet on one side and twelve (12) feet on the other side. The side yard shall be unobstructed from the line of the street to the rear lot line except that open porches, decks, steps, patios and pools (including any projections therefrom), which are located behind the dwelling within the rear yard, may extend to six (6) feet of a side lot line, driveways may extend to four (4) feet of a side lot line and sheds, which are located behind the dwelling within the rear yard may extend to four (4) feet of a side yard.

(Ord. of 12-23-03, § 1)

2760. Cornices and Belt Courses.

2761. A cornice shall not project more than one-third ( 1/3) of the width of a required open space.

2762. A belt course or other ornamental feature shall not project more than nine (9) inches into a required open space.

(Ord. of 12-23-03, § 1)

2770. Courts.

2771. If any part of a story of a nonresidence building is used for offices, studios or workshops which are not lighted from the street or the rear yard, there shall be a court starting not more than fifty (50) feet from the main exterior walls of that story.

2772. If any part of a story is used for living or sleeping rooms which are not lighted from the street or the rear yard, such court shall be required starting not more than two (2) rooms or thirty-five (35) feet from the main exterior walls of that story.

2773. An inner court shall be at least one-third ( 1/3) as wide as it is high, measured from the sills of the lowest windows served by it to the average level of the tops of the enclosing walls, and shall be at least twice as long as its required width or of an equivalent area, but no court shall be less than ten (10) feet in width.

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APPENDIX B  
 - TABLE OF DIMENSIONAL REGULATIONS

Section 2.02 DISTRICTS

REQUIREMENT	RA	RB	RC	RAA	MUB	PB	IA	IB	IC	WI
Minimum Lot Size (sq. ft.)	8,000	8,000 for uses allowed in RA; 10,000 for two-family units	8,000 for uses allowed in RA; 10,000 for two-family units; 15,000 for 3 or more family units	16,000	8,000 for uses allowed in residence A; 10,000 for two-family units; 15,000 for 3 or more family units	0	0	0	0	0
Density of Dwelling Units per Lot	1 per 10,000 sq. ft.	1 per 10,000 sq. ft. for single-family; 1 per 5,000 sq. feet for two-family	1 per 10,000 sq. ft. for single-family; 1 per 5,000 sq. feet for two-family; 1 per 1,000 sq. feet for three or more family	1 per 16,000 sq. ft.	1 per 10,000 sq. ft. for single-family; 1 per 5,000 sq. feet for two-family; 1 per 1,000 sq. feet for three or more family	N/A	N/A	N/A	N/A	N/A
Lot Frontage (ft.)	75	75 for uses allowed in RA; 100 for two-family	75 for uses allowed in RA; 100 for two-family; 150 for 3 or more family	150	75 for uses allowed in RA; 100 for two-family; 150 for 3 or more family; 0 for other allowed uses	0	0	0	0	0
Height of Buildings (ft.)	45 ft.; 60 for religious, educational, or institutional buildings	45; 60 for religious, educational, or institutional buildings	60	35; 60 for religious, educational, or institutional buildings	45 for single or two-family; 60 for three family, 100 <sup>1</sup> for other allowed uses	25	100 <sup>1</sup>	100 <sup>1</sup>	100 <sup>1</sup>	100 <sup>1</sup>
Height of Buildings (# stories)	2.5 3 for religious, educational, or institutional buildings	2.5; 3 for religious, educational, or institutional buildings	4	2.5 3 for religious, educational, or institutional buildings	2.5 for uses allowed in residence A or B; 4 for three or more family; 7 for other allowed uses	2	Z	Z	Z	Z

Front Yard (ft.)	20 <sup>2</sup>	20 <sup>2</sup>	20 <sup>2</sup>	40 <sup>2</sup>	20 for uses allowed in residential district <sup>1</sup> ; 0 for other allowed uses	25	25	25	25	10
Side Yard (ft.)	10 on one side; 12 on the other	10 on one side; 12 on the other	10 on one side; 12 on the other	16 on one side; 24 on the other	8 on one side, 12 on the other for uses allowed in residential district; for other uses, 8 on any side where adjacent lot is in a residential district or used for residential purposes	25	25	25	25	10
Rear Yard (ft.)	30	30	30	30	30 for uses allowed in residential district; for other uses, 10 for 1-2 story buildings; 20 feet for 3 or more stories	25	25	25	25	10 for 1-2 story buildings; 20 feet for 3 or more stories
Lot Coverage by Buildings (%)	30; 40 on corner lots	30; 40 on corner lots	30; 40 on corner lots	30; 40 on corner lots	30; 40 on corner lots for uses allowed in residential district; 0 for other uses	50	50	50	50	50
Green Space	35%	35%	35%	35%	35% for uses allowed in residential districts; 0 for other uses	20	20	20	20	20

<sup>1</sup>Provided, however, that no part of any building shall be erected to a height in excess of 1-<sup>3</sup>/<sub>4</sub> times the horizontal distance from its face to the opposite street line.

<sup>2</sup>Provided, however, that no story or part of any building except projecting eaves or uncovered steps shall be erected nearer to the street line of any street on which it fronts than the average alignment of the corresponding stories or parts of existing buildings within two hundred (200) feet on each side of the lot and within the same block and district. Where there is a building on one or both of the adjoining lots, the front yard for a building shall have a depth equal to the average of the front yard depths of the two (2) adjoining

- lots. A lot without a building shall be counted as having a front yard of the depth required by this chapter. If there are no existing buildings on the same side of the street, the average setback alignment of corresponding stories within two hundred (200) feet on each side of and directly opposite the lot shall govern. One street frontage of a center lot shall have a clear depth of no less than ten (10) feet, in which case this distance shall not be considered in determining the front yard depths on such street. Nothing in this chapter shall require any building hereafter erected between two (2) existing buildings or immediately adjacent lots to set back from the street a greater distance than that one of such two (2) existing buildings which is farther from the street line.

*(Ord. of 12-23-03, § 1)*