

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 _____

X. CONSTRUCTION DEBRIS DISPOSAL**Supplement #2**

In accordance with provisions of Massachusetts General Law C40, §54, debris resulting from this work shall be disposed of in a properly licensed solid waste disposal facility as defined by Massachusetts General Law C111, §150A.

The debris will be disposed of in _____
(Location of Facility)

Signature of Permit Applicant _____

Date _____

XI. HOME IMPROVEMENT CONTRACTOR LAW AFFIDAVIT

(Residential Use Only) Supplement to Permit Application

Supplement #3

MGLC, 142A 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: Mixed use with Food service/retail on 1st Floor + residential units on Upper Floors Est. Cost: _____

Address of Work: 15, 17, 121, 121 1/2 Union St. + 7 North Second St

Owner Name: 117 Union Street LLC Date of Permit Application: _____

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
OR

Contractor Signature _____

Registration No. _____

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

Date _____

Owner Signature _____

XII. BUILDING COMMISSIONERS REVIEW COMMENTS AND CONDITIONS

C. Building Permit Rejected

☒ ZBA-SPECIAL PERMIT + VARIANCE - Planning Board
Site Plan Review

Fee _____

Reason For Rejection: _____

Permit # _____

"See ATTACHMENTS"

B19 2838

Comments and Conditions: _____

Signed _____

Date: 11/1 2019

Title _____

Not valid unless signed (not stamped) by Building Commissioner



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

DEPARTMENT OF INSPECTIONAL SERVICES
133 WILLIAM STREET – ROOM 308
NEW BEDFORD, MA 02740

New Bedford Comprehensive Zoning Code Review

Code of Ordinances – Chapter-9

127-129 Union Street – Plot: 53 – Lot: 146 – Zoned District: MUB

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

Variance is Required from the Zoning Board of Appeals for A.N.R. Zoning Violations*

Site Plan Review is Required from the Planning Board

Zoning Code Review as follows:

Special Permit

Zoning Board of Appeals

❖ SECTION

- 4500-4572 – Downtown Business Overlay District (DBOD)
- 5300-5390 – Special Permit

Variance

Zoning Board of Appeals

❖ SECTIONS

- 2700 – Dimensional Regulation *
- 2710 – General *
- 2720 – Table of Dimensional Requirements – Appendix-B*
 - Minimum Lot Size (Sq. Ft.)*
 - Lot Coverage by Buildings (%)*
 - Side Yard (Ft.)*
 - Rear Yard (Ft.)*
- 2750 – Yards in Residence District*
- 2753 – Read Yard*
- 2755 – Side Yard*
- 3100 – Parking and Loading
- 3110 – Applicability
- 3130 – Table of Parking Loading Requirements – Appendix-C
 - Multi-family (3) or more per structure
 - Places of Assembly

Site Plan Review

Planning Board

❖ SECTIONS

- 5400 – Site Plan Review
- 5410 – Purpose
- 5420 – Applicability
 - 5422. New multiple-family residential construction of three (3) or more units or expansion of existing multifamily residential structures resulting in the creation of one or more additional units.
- 5430-5490B

Permit No. **B.19.2838**
Completion Date



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

FOR BUILDING DEPT. USE

DATE RECEIVED

RECEIVED BY **30**

ISSUED BY:

By **(Signature)**

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

(AT LOCATION) **115, 117, 121, 127-129 Union Street, 7 North Second Street**
(NO) (STREET)
BETWEEN **Acushnet Avenue** AND **North Second Street**
(CROSS STREET) (CROSS STREET)
PLOT **53** LOT **40, 41, 215, 216** DISTRICT **MUB, DBOD** ACCEPTED STREET **Yes**
PLANS FILED ☒ YES ☐ NO **and 146** **New Bedford Landing Waterfront Historic District**

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)
- 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

D.1 PROPOSED USE — For demolition most recent use

Residential

- 13 ☐ One family
- 14 ☒ Two or more family — Enter number of units **51**
- 15 ☐ Transient hotel, motel, or dormitory — Enter number of units
- 16 ☐ Garage
- 17 ☐ Carport
- 18 ☐ Other — Specify

Nonresidential

- 19 ☐ Amusement, recreational
- 20 ☐ Church, other religious
- 21 ☐ Industrial
- 22 ☐ Parking garage
- 23 ☐ Service station, repair garage
- 24 ☐ Hospital, institutional
- 25 ☐ Office, bank, professional
- 26 ☐ Public utility
- 27 ☐ School, library, other educational
- 28 ☐ Stores, mercantile
- 29 ☐ Tanks, towers
- 30 ☐ Funeral homes
- 31 ☒ Food establishments
- 32 ☐ Other — Specify

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.

C. COST

(Omit cents)

- 10 Cost of construction \$
- 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

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

Mixed use with food service/retail on first floor and residential units on upper floors

III. SELECTED CHARACTERISTICS OF BUILDING —

For new buildings complete part E through L. For demolition, complete only parts G, H & I. For all others, (additions, alterations, repair, moving, foundation), complete E through L.

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.)

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

J. DIMENSIONS

- 53 Number of stories **5 and 3**
- 54 Height **<100**
- 55 Total square feet of floor area, all floors based on exterior dimensions **42,000**
- 56 Building length **115**
- 57 Building width **70**
- 58 Total sq. ft. of bldg. footprint **11,565**
- 59 Front lot line width **68**
- 60 Rear lot line width **108**
- 61 Depth of lot **117.01**
- 62 Total sq. ft. of lot size **12,479**
- 63 % of lot occupied by bldg. (58-62) **93**
- 64 Distance from lot line (front) **0**
- 65 Distance from lot line (rear) **1'**
- 66 Distance from lot line (left) **1'**
- 67 Distance from lot line (right) **1'**

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Supplement #1

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(Location of Facility)

Signature of Permit Applicant _____

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Type of Work: Mixed use with Food service/retail on 1st Floor +

residential units on Upper Floors

Est. Cost _____

Address of Work: 5, 117, 121, 127 North Second St. + 7 North Second St.

Owner Name: 117 Union Street LLC

Date of Permit Application _____

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:

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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 _____

Owner Signature _____

XII. BUILDING COMMISSIONERS REVIEW COMMENTS AND CONDITIONS

C Building Permit Rejected

Reason For Rejection:

2 ZBA-SPECIAL PERMIT + VARIANCE - Planner Board
SITE Plan Review

Fee _____

Permit # _____

Comments and Conditions:

Signed _____

Date 11/11

20 19

Title _____

Not valid unless signed (not stamped) by Building Commissioner

9. OWNERSHIP VERIFICATION

This section is to be completed & signed by the property owner:

I hereby authorize the following Applicant: 117 Union Street, LLC

at the following address: 128 Union Street, New Bedford, MA 02740

to apply for: Site Plan Review

on premises located at: 115, 117, 121, 127-129 Union Street and 7 North Second Street

in current ownership since: June 19, 2019

whose address is: _____

for which the record title stands in the name of: Same

whose address is: _____

by a deed duly recorded in the:

Registry of Deeds of County: Bristol Book: 12830 Page: 27

OR Registry District of the Land Court, Certificate No.: _____ Book: _____ Page: _____

I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the approval(s). I/we also give Planning Department staff and Planning Board Members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.

9. 5. 19

Date


Signature of Land Owner (If authorized Trustee, Officer or Agent, so identify)

2. Review Applicability (Check All That Apply to Your Proposal)

Category

- ☒ Residential
☒ Commercial
☐ Industrial
☐ Mixed (Check all categories that apply)

Construction

- ☒ New Construction
☐ Expansion of Existing
☒ Conversion
☒ Rehabilitation

Scale

- ☐ < 2,000 gross sq feet
☒ > 2,000 gross sq feet
☒ 3 or more new residential units
☐ 1 or more new units in existing res. multi-unit
☐ Drive Thru Proposed
☐ Ground Sign Proposed
☐ Residential Driveway With > 1 curbcut

3. Zoning Classifications

Present Use of Premises: Existing three-story vacant building and five, one-story vacant buildings.

Proposed Use of Premises: Commercial 1st floor with two floors above apts at 127-129 Union Street. Commercial 1st floor with four floors above apts. at 117 Union Street.

Zoning Relief Previously Granted (Variances, Special Permits, with Dates Granted):

Special permit for five-story building at 117 Union Street.

4. Briefly Describe the Proposed Project:

It is proposed to convert the lower floor into a retail/restaurant and the two floors above into eight residential apartments at 127-129 Union Street.

It is proposed to raze the five one-story buildings at 117 Union Street and construct retail/restaurant on 1st floor, and four floors above with 42 residential units. North of the existing three-story building, a single-story studio will be constructed.

5. Please complete the following:

	Existing	Allowed/Required	Proposed
Lot Area (sq ft)	12,479	15,000	*
Lot Width (ft)	117.01	0	**
Number of Dwelling Units	0	No Std.	50
Total Gross Floor Area (sq ft)	14,665	N/A	47,574
Residential Gross Floor Area (sq ft)	0	N/A	37,116
Non-Residential Gross Floor Area (sq ft)	14,665	N/A	10,458
Building Height (ft)	43	100	60
Front Setback (ft)	0	0	0
Side Setback (ft)	N/A	10	N/A
Side Setback (ft)	N/A	12	N/A

* 2,306 SF for three story Moby Dick building
10,173 SF for five story 117 Union Street building

** 37.00 LF for three story Moby Dick building
117.01 LF for five story 117 Union Street building

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:

5421. Any new industrial or commercial construction or expansion over two thousand (2,000) gross square feet or any new industrial or commercial construction or expansion requiring more than five (5) additional parking spaces;

5422. New multiple-family residential construction of three (3) or more units or expansion of existing multifamily residential structures resulting in the creation of one or more additional units.

5423. Any new construction or expansion of existing construction where a drive-thru window for any service including self-service is proposed; and any expansion of a structure presently containing a drive-thru; or any facility currently containing a drive-thru, at which the owner or operator of the drive-thru is altered or changed; or at which the drive-thru is closed for a period of 10 days or more and to be reopened.

5424. Any residential subdivision which is submitted under the subdivision control process;

5425. New industrial or commercial construction or additions less than two thousand (2,000) square feet if requiring a new curb cut or driveway or if substantially affecting existing internal circulation.

5426. Driveways in residential areas which require more than one new curb cut.

5427. Commercial or industrial ground signs.

(Ord. of 12-23-03, § 1; Ord. of 12-31-08, § 1)

5430. Procedures. Applicants for site plan approval shall submit seventeen (17) copies of the site plan to the Planning Board for distribution to City departments and commissions for their review. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate and notify the applicant of its decision. In the event two (2) meetings have lapsed after the application for site plan approval is filed, without the Planning Board taking action on said site plan said Applicant may file a statement with the Board that the Board has received complete information in accordance with this Ordinance and has had adequate time to consider the Site Plan. Upon receiving said statement, the Planning Board shall act on said Site Plan at its next meeting, if said Board determines that the Board has, in fact, received complete information in accordance with this Ordinance. The decision of the Planning Board shall be a vote of a majority of the members of the Planning Board and shall be in writing. No building permit, for activities requiring site plan approval, shall be issued by the Inspector of Buildings without the written approval of the site plan by the Planning Board.

5431. Application for Building Permit. An application for a building permit to perform work as set forth in Section 5410 available as of right shall be accompanied by an approved site plan.

5432. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section 5420 shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section 5420 shall contain the following condition and cause the same to be written on such special permit or variance:

The work described herein requires the approval of a site plan by the New Bedford Planning Board pursuant to Section 5400 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

5433. Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

5434. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

5435. The applicant may request, and the Planning Board may grant by majority vote of its' membership, an extension of the time limits set forth herein.

5436. No deviation from an approved site plan shall be permitted without modification thereof.

5437. Site plan approval does not constitute a certification that the proposed plan conforms to applicable zoning regulations, wetland regulations and/or any other City, state or federal requirements that must be obtained prior to implementation the of elements of the site plan.

(Ord. of 12-23-03, § 1)

5440. Preparation of Plans. Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Department and are encouraged to schedule a pre-submission meeting with the Planning Department. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1" = 40'.

(Ord. of 12-23-03, § 1)

5450. Contents of Plan. The contents of the site plan are as follows:

5451. Plan sheets prepared at a scale of one inch equals forty (40) feet or such other scale as may be approved by the Planning Board. The plans are as follows:

5451.a. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, general circulation plan for vehicles and pedestrians, drive-thru windows, curb cut locations, parking, fences, walls, walks, outdoor lighting including proposed fixtures, loading facilities, solid waste storage locations, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one inch

equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.

5451.b. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater runoff drainage.

5451.c. Utility plan, which shall include all facilities for refuse and sewerage disposal or storage of all these wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.

5451.d. Architectural plan, which shall include the ground floor plan, proposed exterior building materials, treatments and colors and architectural elevations of all proposed buildings and a color rendering where necessary to determine the proposal's affect on the visual environment.

5451.e. Landscaping plan, showing the limits of work, existing tree lines as well as those tree lines to remain, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures during construction.

5451.f. Lighting plan showing the location and orientation of all existing and proposed exterior lighting, including building and ground lighting. The plan shall note the height, initial foot-candle readings on the ground and the types of fixtures to be used.

5452. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

5453. A written summary of the contemplated project shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and

off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this Ordinance.

5454. The site plan shall be accompanied by drainage calculations by a registered professional engineer as well as wetland delineations, if applicable. Storm drainage design must conform to City of New Bedford subdivision regulations.

5455. The Planning Board may require a DIS as set forth in Section 5300, above.

5456. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

(Ord. of 12-23-03, § 1)

5460. Waivers. The Planning Board may, upon written request of the applicant, waive any of the submittal or technical requirements of Section 5430 and 5440 where the project involves relatively simple development plans.

(Ord. of 12-23-03, § 1)

5470. Approval. Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives: The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

5471. Minimize: the volume of cut and fill, the number of removed trees six-inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and the threat of air and water pollution;

5472. Maximize: pedestrian and vehicular safety to and from the site;

5473. Minimize obstruction of scenic views from publicly accessible locations;

5474. Minimize visual intrusion by controlling the layout and visibility of parking, storage, or other outdoor service areas viewed from public ways or premises which are residentially used or zoned;

5475. Minimize glare from vehicle headlights and lighting fixtures;

5476. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

5477. Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of solid and liquid wastes and hazardous substances;

5478. Ensure compliance with the provisions of this Zoning Ordinance.

5479. Minimize damage to existing adjacent public ways.

5479A. Promote orderly and reasonable internal circulation within the site so as to protect public safety and not unreasonably interfere with access to a public way or circulation of traffic on a public way in general.

(Ord. of 12-23-03, § 1)

5480. **Lapse.** Site plan approval shall lapse after one year from the final approval if a substantial use in accordance with such approved plans has not commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant, within this one-year period.

(Ord. of 12-23-03, § 1)

5490. **Regulations.** The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

(Ord. of 12-23-03, § 1)

5490A. **Fee.** The Planning Board may, from time to time, adopt reasonable administrative fees and technical review fees for site plan review.

(Ord. of 12-23-03, § 1)

5490B. Appeal. Any person aggrieved by a decision of the Planning Board rendered pursuant to Section 5400 may appeal such decision to the Zoning Board of Appeals as provided in M.G.L.A. c. 40A, § 8.

(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 (3½) 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 may extend to four feet of a rear yard. A storage shed may extend to eighteen (18) inches of a rear yard unless a fence is erected on the property along the rear yard line. In such case the storage shed may extend to eighteen (18) inches of the fence or fence post whichever is closest. 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 (½) 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 ten (10) 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 storage sheds, which are located behind the dwelling within the rear yard may extend to eighteen (18) inches of a side yard unless a fence is erected on the property along the side yard line. In such case the storage shed may extend eighteen (18) inches of the fence or fence post whichever is closest. For all driveways, including those regulated under Section 2756, the area between a driveway and the side lot line shall be of a different material than the material used for the driveway and shall not be covered with an impervious surface or crushed stone.

Notwithstanding any provision to the contrary, any driveway existing prior to April 15, 2009, that is made of a material that creates an impervious surface, may be permitted for repair, resurfacing or reconstruction with substantially the same type of material provided that the dimensions of the driveway are not increased and the location of the driveway layout is not altered.

2756. Special Driveway Side Yard Requirements. For existing dwellings on lot sizes of less than five thousand (5,000) square feet, driveways shall not extend to the side lot line closer than ten (10) percent of the distance between the side lot line and the principle dwelling. For any driveway in excess of thirteen (13) feet in width, the provisions of Section 2755 regulating driveway setbacks shall apply and this section shall not apply.

(Ord. of 12-23-03, § 1; Ord. of 4-15-10, § 1; Ord. of 10-20-11, § 1; Ord. of 1-15-13, §§ 1, 2)

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.

2774. The minimum width of an outer court shall be double that required in this Section for an inner court.

2775. A cornice or belt course shall not project more than six (6) inches into any inner court.

(Ord. of 12-23-03, § 1)

2780. Height of Buildings. The provisions governing the height of buildings in Appendix B shall apply to chimneys, cooling towers, flagpoles, elevator bulkheads, skylights, ventilators, and other necessary appurtenant features usually carried above roofs; to domes, stacks or spires and also to wireless communications facilities.

(Ord. of 12-23-03, § 1)