



CITY OF MELROSE
APPROPRIATIONS & OVERSIGHT COMMITTEE
AGENDA • APRIL 10, 2023

Council Chamber, First Floor, Melrose City Hall Committee Meeting
562 Main Street, Melrose, MA 02176

7:45 PM

I. CALL TO ORDER

Leila Migliorelli	Chair
Maya Jamaledine	Vice Chair
Shawn M. MacMaster	
Christopher Cinella	
Jack Eccles	
Mark Garipay	
Robb Stewart	
Manjula Karamcheti	
John Obremski	
Ryan Williams	
Jen Grigoraitis	President, Ex Officio

II. PUBLIC COMMENT

Remote Link for Public Comment:
<https://cityofmelrose-org.zoom.us/j/99081483447>

Meeting ID:
990 8148 3447

III. APPOINTMENTS/REAPPOINTMENTS

1. **APPT-2023-5:** Appointment of Daniel Gelormini, 20 Pilgrim Road, to the Melrose Zoning Board of Appeals (ZBA) as an Associate Member for a two year term set to expire on the last day of February 2025.

From: City Council

ASSIGN TO COMMITTEE

IV. APPROPRIATION

1. **APPRO-2023-21:** An Appropriation to the planning department to fund the School Facilities Master Plan.

From: City Council

ASSIGNED TO COMMITTEE

V. ORDERS

1. **ORDER-2023-59** : Amending Melrose Revised Zoning Ordinance, Chapter 235, Various Provisions

Offered by: Mayor Paul Brodeur

From: Appropriations & Oversight Committee

HOLD

VI. ADJOURNMENT

Application Form**Profile**

Daniel

First Name

Middle Initial

Gelormini

Last Name

 Email Address

20 Pilgrim Road

Home Address

Suite or Apt

Melrose

City

MA

State

02176

Postal Code

What district do you live in?

None Selected

Mobile:

Primary Phone

Alternate Phone

CBT Architects

Employer

Associate Principal

Job Title

Which Boards would you like to apply for?

Board of Appeals: Submitted

Interests & Experiences

Please tell us about yourself and why you want to serve.

Why are you interested in serving on a board or commission?

It would be an honor to serve on the Melrose Board of Appeals as it aligns with both my personal and professional values to promote the public good. As an Architect and 11-year Melrose resident, I am passionate about the way we shape our communities. I believe my experience as an Architect and familiarity with the appeals processes uniquely positions me to add value to the Board of Appeals. I am excited at the opportunity to contribute my expertise through informed objective insight of the current Zoning Ordinance with the intent to improve the future built environment and quality of life for our residents and community.

2023_02_08_Daniel_Gelormini_Resume.pdf

Upload a Resume

Demographics

DANIEL GELORMINI AIA | LEED AP BD+C
20 PILGRIM ROAD, MELROSE MA

Experience

CBT Architects, Boston, MA

2010 - Current

Associate Principal | Senior Project Manager

- Manage all aspects of Architectural project delivery from Pre-Design through Construction Administration on projects ranging in costs from \$1.2M - \$220M
- Act as main point of contact for key project stakeholders including, Owners, Directors, Investors, OPMs, etc.
- Develop and maintain project schedules in all phases of design
- Provide guidance through building permitting and public approvals processes
- Prepare and present various projects to applicable City/Town Boards and Commissions
- Generate project budgets and proposals for architectural services ranging in costs of \$200K - \$8.0M
- Solicit, vet, and manage consultant design teams varying in size from 2-19 consultants
- Review project GMPs and construction contracts and provide recommendations to ownership
- Coordinate LEED related criteria for certifiable projects
- Lead various design teams ranging in size from 2-22 employees on multiple projects in various phases from Business Development-Construction Administration
- Review contractor Payment Requisitions and Change Orders
- CBT Recruiting and Staffing team member participating in talent acquisition and employee evaluations

Notable Projects

25 Beacon Street Residences – Boston MA
Trust Early Learners – Brookline MA
Avalon Bay Residences – Brighton MA
Nashua St Residences – Boston MA
Doggett St Residences – Charlotte NC (In process)
415 Newbury St Residences – Boston MA (In process)
Norton Museum of Art Expansion – West Palm Beach FL
Museum of Fine Art Boston – Art of the Americas Wing - Boston MA
Fessenden School Renovations – West Newton MA

Space International, Los Angeles, CA

2007-2009

- Developed Construction Documents for multiple boutique retail spaces
- Developed design and Construction Documents for mixed-use developments
- Coordinated design with engineering consultants via BIM
- Designed modular façade components for pop-up retail spaces
- Developed and prepared design presentations for Rudolph M. Schindler Mak Center galleries
- Performed Construction Administration related tasks including submittal reviews and RFIs

McMahon Architects, Boston, MA

2005 – 2007

Landry Architects, Salem, NH

2003 – 2004

Education

Southern California Institute of Architecture

- Masters of Architecture, X-Program
- Honors Exhibition
- SCI-arc Grant

2009

Wentworth Institute of Technology

- Bachelor of Science in Architectural Engineering Technology
- Merit Scholarship

2007

Teaching Experience

Adjunct Professor, Wentworth Institute of Technology, Boston, MA

2010 - 2015

- Professional Practice I – Autodesk Revit
- Digital Studies – Autodesk Rhino

Teachers Assistant, Southern California Institute of Architecture, Los Angeles, CA

2008 - 2009

- Graduate Professional Practices
- Graduate Visual Studies/Strategies of Representation 4/Autodesk Maya/Advanced Digital Tool



Paul Brodeur
Mayor

CITY OF MELROSE

OFFICE OF THE MAYOR

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4440
Fax - (781) 662-2182

MEMORANDUM

To: Melrose City Council
From: Mayor Paul Brodeur
Re: Zoning Board of Appeals
Date: March 28, 2023

I respectfully request the Honorable City Council confirm the appointment of Daniel Gelormini, 20 Pilgrim Road, to the Melrose Zoning Board of Appeals (ZBA) as an Associate Member for a 2-year term set to expire on the last day of February 2025. Mr. Gelormini's appointment replaces the membership of Julianna Hanlon, who recently resigned from the ZBA.

Mr. Gelormini's experience as an architect and insight into the appeals process and City's zoning ordinances will add immense value to the Melrose Zoning Board of Appeals.

Thank you for your consideration.



CITY OF MELROSE

Auditor's Office

Patrick D. Dello Russo
CFO/City Auditor

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4110

To: Honorable Mayor Paul Brodeur & City Council
City of Melrose

From: Patrick D. Dello Russo, CFO/City Auditor
City of Melrose

Date: April 3, 2023

Re: 4/3/23 Requested Free Cash Appropriations

Please be advised, if the following orders presented on the 4/3/23 agenda are approved the remaining balance in free cash would be as follows:

	APPRO Amount	Balance of Free Cash	Dept
Certified Free Cash for Fiscal 2022		7,159,906.00	
APPRO-2023-14 Passed 3/20/23	35,311.00	7,124,595.00	School
APPRO-2023-15 Passed 3/20/23	2,762,674.93	4,361,920.07	School
APPRO-2023-16 Passed 3/20/23	35,449.00	4,326,471.07	Elections
APPRO-2023-17 Passed 3/20/23	903,000.00	3,423,471.07	Public Safety
<i>If APPRO-2023-19 is approved</i>	<i>159,784.00</i>	<i>3,263,687.07</i>	<i>City Departments</i>
<i>If APPRO-2023-20 is approved</i>	<i>169,959.48</i>	<i>3,093,727.59</i>	<i>School</i>
<i>If APPRO-2023-21 is approved</i>	<i>125,000.00</i>	<i>2,968,727.59</i>	<i>School Facilities/Planning</i>



CITY OF MELROSE

AUDITOR'S OFFICE

PATRICK D. DELLO RUSSO
CFO/City Auditor

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4107
Fax - (781) 662-2182

To: Honorable City Council
City of Melrose

From: Patrick D. Dello Russo, MBA
CFO/City Auditor

Date: March 28, 2023

Re: Free Cash Appropriation Considerations for the remainder of the Fiscal Year.

As the CFO/City Auditor, I submit this summary of Financial Management Strategies for the remainder of the Free Cash available for the remainder of the fiscal year. To-date: \$3,423,471.07 is available of the \$7,159,906 Certified.

Part I.

Reserves/Stabilization Funds & Management (\$950,000)

The City of Melrose has established a number of Financially Strategic Stabilization Funds, with a collective balance just under \$7.5 million dollars. This provides assurance to the community that we can meet a negative downturn in the economy or unanticipated costs, which could disrupt the delivery of services and negatively impact our operating budget at any given time within a fiscal year. There is "tremendous value here" in our collective decision to safeguard the assets of the community through the establishment of these funds. There is no greater priority from a financial perspective.

1. We have developed a "Foundation Stabilization Fund" # 8401, with a balance just under \$3.9 million dollars. The request before you is to add the sum of \$50,000 thousand dollars to this fund for a total of close to \$3.95 million dollars. The City's goal is to have the Fund equate to 5% of the operating budget. In Fiscal 2023 that amount would be just over \$4.7 million dollars. If approved, this would be a positive move in our efforts to reach that goal. The Massachusetts Municipal Association "best practice" includes adopting reserve funding targets of 5% or more based on the specifics of the municipal

budget and consideration of spending and revenue risks. There is also a standing City Council Ordinance (Section 48-5) that speaks to the funding of the Stabilization Fund annually. We have also budgeted \$50,000 to go into this fund as part of the standard annual operating budget request.

2. We have established a “Contract Stabilization Fund” #8404, with a balance of just over \$882,000 thousand dollars. The request before you is to add the sum of \$450,000 thousand dollars to this fund in order to insure that the city can fund negotiated collective bargaining agreements when settled, and non – union compensation obligations for example. This includes any retroactive payments relative to the respective contracts and non-union salary adjustments. To date, going into FY2024, the Fire Union is out of contract as of June 30, 2023. The target balance for this fund is \$1.3 million dollars.
3. We have established a Capital Stabilization Fund # 8405, with a balance of just over \$472,000 thousand dollars, and we seeking \$100,000 dollars at this time as it mirrors our targeted amount of \$550,000 at this time. Capital purchases in excess of \$25,000 thousand dollars are funded from this source. This enables the city to add flexibility in addressing its’ capital needs (pay as you go financing) for items that are not advantageous to issue debt on (departmental equipment, for example) and may be needed at any time during a fiscal year.
4. We have established a Suits and Claims Stabilization Fund # 8406, with a balance of over \$496,378 thousand dollars. The city uses this fund to address costs associated with legal claims and suits that arise throughout the fiscal year. We are not seeking any funding at this time as it meets our target amount of \$500,000 thousand dollars.
5. We have established a “Special Education Stabilization Fund” #8408, which is used to fund special education costs realized by the School Department that exceed its budgeted funds. We are requesting you to add \$250,000 thousand dollars to this fund at this time. We currently have just over \$502,000 thousand dollars in this fund. Our new target allocation is a standing balance of \$750,000 thousand dollars given the increases in costs we are realizing.

6. We have established a Statutory Fund under Chapter 32b, Section 20; called the **“OPEB Fund” #8407**, (Other Post Employment Benefits), with a balance of just over \$1,038,000 thousand dollars. We are requesting the sum of \$50,000 thousand dollars be added to this fund. The continued funding of this significant liability plays a “key” role in the determination of our Bond Rating by Standard and Poor’s Rating Agency (please see most recent S & P report dated September 15, 2020). We have also incorporated a request for \$50,000 thousand dollars as part of the standard annual operating budget request.
7. We have established an **“OSHA” Fund # 8409**, (Occupational Safety and Health Administration), stabilization fund with a current balance of over \$204,000 thousand dollars. We are requesting the sum of \$50,000 thousand dollars be added to this fund which would bring the balance to just over \$250,000 thousand dollars. The City’s target amount for this fund is \$250,000 thousand dollars.

Part II.

Project/Program and Cost considerations (\$1,158,893.48):

1. School Department Curriculum Program - \$169,959.48
2. School Department Master Plan - \$125,000
3. HRS Nonunion compensation plan funding - \$159,784
4. DPW Tree Planting Program - \$84,150
5. Radar Speed Signs and Traffic Study - \$50,000
6. IT Investments in City/School Technology - \$200,000
7. Accessibility and Adaptive Equipment Projects - \$100,000
8. Medicare - \$40,000
9. City Solicitor Liability Insurance Program - \$30,000
10. HR Department - Workers Compensation - \$150,000
11. Cemetery Department - \$50,000

Part III.**Open Items and Cost Considerations (\$1,314,577.59):**

1. Public Safety Overtime - \$300,000
2. Snow & Ice Funding Contingency - \$1,014,577.59

Summary Observations**Balance Information:**

Part I. \$ 950,000.00

Part II. \$ 1,158,893.48

Part III. \$ 1,314,577.59

Total: \$ 3,423,471.07

In closing, it is always our intent to seek transfers to offset budgetary items that need supplemental funding such as Medicare for example, in lieu of using Free Cash Funds. The amounts represented here are estimates until a formal request is made from the Mayor to the City Council for funding. Supplemental items may be introduced, and some items may be changed in dollar scope as well as more information becomes available. In the event we do not have to use the Snow and Ice Funding Contingency, the Mayor will make an additional funding request to present to the City Council prior to the fiscal year end. The objective of this memorandum is to simply provide you with some perspective on items under consideration by the Office of the Mayor.

Cc: Honorable Mayor Paul Brodeur
 Margot Fleischman, Director of Strategic Initiatives



DENISE M. GAFFEY
Director and City Planner

CITY OF MELROSE

OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4190
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MEMORANDUM

TO: Mayor Paul Brodeur

CC: Patrick Dello Russo, Chief Financial Officer/City Auditor
Dr. Julie Kukenberger, MPS Superintendent of Schools
Kenneth Kelley, MPS Director of Finance and Administrative Affairs

FR: Denise Gaffey, OPCD Director
Elena Proakis Ellis, DPW Director

DATE: April 3, 2023

RE: Free Cash Request for School Facility Master Plan Study

The Feasibility Study recently completed for the Beebe Elementary School and the current challenges with the Ripley School building highlight the need to perform a comprehensive assessment of all school facilities to better understand how existing facilities can be used in an optimal way to best serve the needs of Melrose students and the community at large.

A comprehensive district-wide school facility evaluation was last performed in 1997 by HMFH Architects. That study was instrumental at the time in positioning the City and School Department to embark on a capital campaign for new school facilities in collaboration with the Mass School Building Authority (MSBA). It resulted in three major school facility projects including the Lincoln Elementary School Renovation and Addition (2000), the new Roosevelt Elementary School (2002) and the new Melrose Veterans Memorial Middle School (2007). Other important capital projects in school facilities that have been performed in recent years include the series of investments in the Melrose High School (Science Labs, Learning Commons, Guidance and Administration Upgrades, Roof Replacement and HVAC Upgrade), the renovations to the Horace Mann Elementary School and the Modular Classroom additions at the Winthrop and Hoover Elementary School.

These projects addressed enrollment challenges and obsolete facility needs at the time, but the needs and challenges that confront the district today—25 years after the last School Facility Master Plan Study--require a new, comprehensive evaluation. This Study

Free Cash Request for School Facility Master Plan
April 3, 2023
Page Two

will assess existing physical conditions at each of the school facilities, review their adequacy to house anticipated student enrollment over the next 20 years and make recommendations for necessary renovations and reconfigurations in line with desired educational outcomes. The study will also help identify the priorities for pursuing grant funding for capital construction projects through the MSBA.

It is imperative to start planning now to identify the next Core Capital Project to submit for grant funds to the MSBA as it can take years for project to receive an invitation to proceed. In addition, a decision about the future use of the Beebe Elementary School will be needed once the library vacates the space next year. This study will help guide these important decisions.

This project ranked highly on the 2022 Capital Improvement Program (CIP) list of projects. It addresses the major CIP criteria and is linked to several other CIP Projects. It is estimated to cost \$125,000, based on a review of similar efforts and discussions with architects familiar with this work.

Thank you for your support. We look forward to discussing this further with the City Council as they consider this request.



GREGORY SAMPSON
Chair

CITY OF MELROSE

PLANNING BOARD

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4190
Fax - (781) 979-4290

January 31, 2023

The Honorable Mayor Brodeur and
The Honorable City Council
of the City of Melrose, Massachusetts

RE: Proposed Zoning Amendments

To His Honor and the Members of the Council:

At its meetings on December 19, 2022 and January 23, 2023, the Planning Board voted to submit the attached zoning amendments to the City Council. These proposed changes seek to clarify sections of the code for easier interpretation and understanding, ensure compliance with Massachusetts General Laws, and reduce the number of variance requests for violations that are regularly approved by the Board of Appeals. The purpose and reasoning behind each proposed amendment will be described in detail below.

Corner Lot Setbacks

The purpose of this amendment is to allow properties on corner lots to have similar side yard setback requirements as those properties that are not at the intersection of streets. In the Board's extensive review of corner lot properties, allowing for side yard setback distances on corner lots by Variance has not been detrimental to the streetscape or to the abutting properties. Two yards often function as side yards and allowing for a side yard setback in these locations provides the Owner space to build a structure that is consistent with the use of the yard while not creating negative impacts to the rhythm of buildings on the block.

Changing the Ordinance to allow for side yard setbacks will remove the need for many cases to obtain a Variance for corner lot setback relief. Since 2017, 38 cases have been brought before the Board of Appeals for variances related to a hardship imposed by the corner lot setback requirements. Removing the need for this permit reduces the Owners' administrative work, uncertainty, cost and extended permitting time that is associated with construction on corner lots. This amendment is also identified as an action item in the Melrose Forward Master Plan.

Structure Definition

The Melrose Zoning Ordinance (MZO) currently defines retaining walls and fences as structures. MZO §235-24.B, Accessory Buildings and Other Structures, requires

accessory structures to be governed by regulations for an accessory building unless specifically exempted by a variance. Oftentimes fences and retaining walls are therefore required to have an accessory structure setback from property lines. Since it is a typical condition for a retaining wall or fence to be on or close to a property line, it was likely not the intent of the regulation for accessory structure setback to apply to them. Removing retaining wall and fence from the definition of structure will resolve this issue.

BA-2 Zoning District Line Change at 521-529 Franklin St.

521-529 Franklin Street (parcel B12 058) is split into two zoning districts. The front of the parcel facing Franklin Street is in BA-2, while most of the parking lot to the rear is in UR-A. The property owner requested that the entirety of the lot be brought into BA-2 explaining that refinancing and insuring the property is complicated by the split zoning and the best use of the property is in line with uses permitted in BA-2.

Definition of Retail Food Establishment

This amendment updates the definition of retail food establishment to allow for the sale of alcoholic beverages for off premise consumption, which reflects the recent change in the City's liquor laws.

Definition of In-law Apartment

The definition of in-law apartments in the MZO has been found to be overly restrictive and creates undue hardship for many applicants who wish to create a dwelling unit for a family member in their home or attached to their home. The provision requiring the unit to be located within the single-family dwelling as it existed on January 1, 1990, is limiting and prohibits additions to accommodate in-law apartments. The Board of Appeals has approved variances from this provision on several occasions to permit in-law apartments and allow for this reasonable use where all other provisions are met.

This amendment strikes paragraph F from the definition and modifies paragraph G to address this issue. Removing paragraph F will allow for alterations and additions to existing single-family houses to accommodate in-law apartments. Revising paragraph G would continue to restrict the size of the unit in relation to the existing single-family home; additions would need to conform to the dimensional regulations within the district; and a special permit from the ZBA is still required for all in-law apartment proposals. This amendment is also identified as an action item in the Melrose Forward Master Plan.

Votes for Special Permit Approval & Term

Votes for Approval

This amendment updates the MZO to be consistent with recent changes to MGL C.40A (the Zoning Act) and reflect State regulations. Chapter 358 of the Acts of 2020 made several amendments to Chapter 40A, including: (1) changes to section 5 to reduce the number of votes required to enact certain kinds of zoning ordinances and bylaws from a $\frac{2}{3}$ supermajority to a simple majority; and (2) changes to section 9 making similar changes to the voting thresholds for the issuance of certain kinds of special permits.

Changes to the MZO related to Zoning Amendment voting is not needed because the language just references Section 5 of the Zoning Act.

Special Permit Term

This amendment increases the time allowed to exercise a special permit, which reflects another recent change to the Zoning Act. Chapter 219 of the Acts of 2016 increased the timeframe to exercise a special permit from two to three years. Municipalities are not obligated to adopt the longer timeframe, however, increasing the special permit term is more accommodating while conforming to the MGL.

Site Lines and Fence Height in Front Yards On Corner and Non-Corner Lots

The language in Sections 235-25.K and 235.25.L of the Zoning Ordinance is confusing and unclear. The Office of Planning and Community Development has received calls from residents attempting to understand this section of the code, which is easily misinterpreted and difficult to follow. Councilor McMaster also requested that the language in sections §235-25.K & §235-25.L be revised prompting the proposed amendment which provides clearer and more manageable instruction.

Site Plan Review Criteria

In relation to the amendment above, in districts where no setback from the property line is required, attention should be given to the safety of travel around corner sites with relation to the location of buildings and driveway openings during the Site Plan Review process. While the preceding amendment regulates lots in residential districts, this amendment ensures that this issue is considered for all new development.

Vegetation Height for Corner Lots & in Yards along Streets - General Code Amendment

In amending §235-25.K & §235-25.L, vegetation was removed from these sections and inserted in the General Code shifting enforcement responsibility from the Building Commissioner to the Department of Public Works, which generally oversees vegetation maintenance throughout Melrose. Additionally, with the regulation removed from the zoning ordinance a hedge that exists today will not be deemed legally nonconforming. The general code allows enforcement of existing and new vegetation and discretion is provided to the Director of Public Works to determine if vegetation creates a safety hazard.

Unit Size

The MZO's restrictions on unit size as regulated in §235-25.I prevent the City from complying with the Department of Housing and Community Development's guidelines on the new multi-family zoning requirements for MBTA Communities. (See Section 3A of MGL c. 40A, that was part of the 2021 Economic Development Bill.) The regulations require that multi-family housing is suitable for families with children and that zoning cannot restrict the number of bedrooms, the size of bedrooms, or the number of occupants.

The proposed amendment strikes the minimum unit sizes from the zoning ordinance. Residential unit sizes are addressed in the State Sanitary Code, enforced by the Board of

Health, and the State Building Code, enforced by the Building Commissioner, which regulate minimum dwelling unit and bedroom sizes per occupant and other dimensional controls of residential units. In addition to the aforementioned codes, the City's zoning districts have different mechanisms that directly or indirectly control the size of residential units. Some districts regulate the number of units per lot based on lot area, and all control a building's size through Floor Area Ratio and/or height and setback regulations. Market demand is an additional control over unit size. Two recent developments downtown provide a few studio apartments/microunits of between 360 to 400 square feet in each; however, the market demand is generally for larger units.

By eliminating unit size from the MZO, the City will comply with MGL c. 40A s. 3A while still being able to regulate density using other provisions. In addition to needing to make this change to the Ordinance to comply with the new law, having a variety of housing types in terms of size and cost, is a goal of the City's Housing Production Plan and this change will allow for smaller units, which have been successful in a few recent developments.

Definition of Family & Dwelling Units

The amendment to the definitions of family and dwelling units is also needed to comply with DHCD's guidelines on the new Multi-family zoning requirements for MBTA Communities. It strikes the definition of family and replaces it with definitions for One-Family and Two-Family Dwelling Units. The MZO already defines Dwelling Unit and Multifamily Dwelling Units thereby organizing the code in a more logical and streamlined manner. The definition of dwelling unit establishes the primary intent of a residential unit being a space with complete living facilities (living, sleeping, eating, cooking and sanitation) occupied by people that share the use of that space together as a single housekeeping unit. Restricting occupancy based on biological or legal relationships does not address the purposes of zoning. A biological family can have the same, less, or more of an impact on zoning issues such as traffic, parking, overcrowding, public systems, etc., than a non-tradition family living together as a household. Regulating density through the current definition of family can be discriminatory and illegal in how it is enforced.

This amendment also seeks to strike the definition of Apartment House from the MZO and the Table of Use and Parking Regulations. The definition references family and the Multifamily Dwelling duplicates the apartment house use rendering it obsolete. Lastly, this amendment seeks to eliminate the references to apartment house and garden house from the definition of Multifamily Dwelling, which are repetitive and antiquated.

In accordance with M.G.L., Chapter 40A, Section 5, all proposed zoning amendments received by the City Council shall be submitted to the Planning Board within 14 days for review and to schedule a public hearing. The City Council and the Planning Board are required to hold public hearings within 65 days. The Planning Board would welcome a joint public hearing with the City Council. After the hearing, the Planning Board has 21 days to submit a report with recommendations to the City Council. The City Council

Proposed Zoning Amendments
January 31, 2023
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must wait until they receive a report from the Planning Board or wait for 21 days before holding a vote. Please forward the proposed amendments to us at your earliest convenience in order to begin the review process.

Thank you for your consideration. We look forward to discussing these important amendments with you.

Respectfully yours,



Gregory Sampson
Planning Board Chair

Attachment: Proposed Zoning Amendments dated January 31, 2023

cc: Shannon Phillips, City Solicitor
Rita Mercado, Chairwoman, Board of Appeals
Albert Talarico, Building Commissioner
Denise Gaffey, OPCD Director & City Planner
Members of the Planning Board

Attachment: Letter to Mayor and CC with Proposed Zoning Amendments 1_31_2023 (ORDER-2023-59 : Zoning Amendments)

Corner Lot Setbacks Zoning Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION 235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

LOT, CORNER - A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines or, in case of a curved street, extended lot lines, being not more than 135°. ~~For purpose of this chapter, each street frontage shall be considered a front yard and the remaining two yards shall be considered rear yards.~~

LOT LINE, REAR—The lot line opposite from the front lot line except as provided for in §235-25.C.

Amend ARTICLE VI, Dimensional and Density Regulations, SECTION 235-25, Additional dimensional and density provisions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

~~C. A corner lot shall have minimum street yards with the depths which shall be the same as the required front yard depths for the adjoining lots.~~

For a corner lot the street frontage that is used to access the main entrance (typically identified by street address) of the structure from the street shall be considered a front yard. The other street frontage shall be considered a side yard.

Of the remaining two yards, the yard with the shallower depth shall be considered a side yard and the yard with the deeper depth shall be considered the rear yard. If the remaining yards have the same depth, the owner can designate the side and rear yards.

Structure Definition Zoning Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION 235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

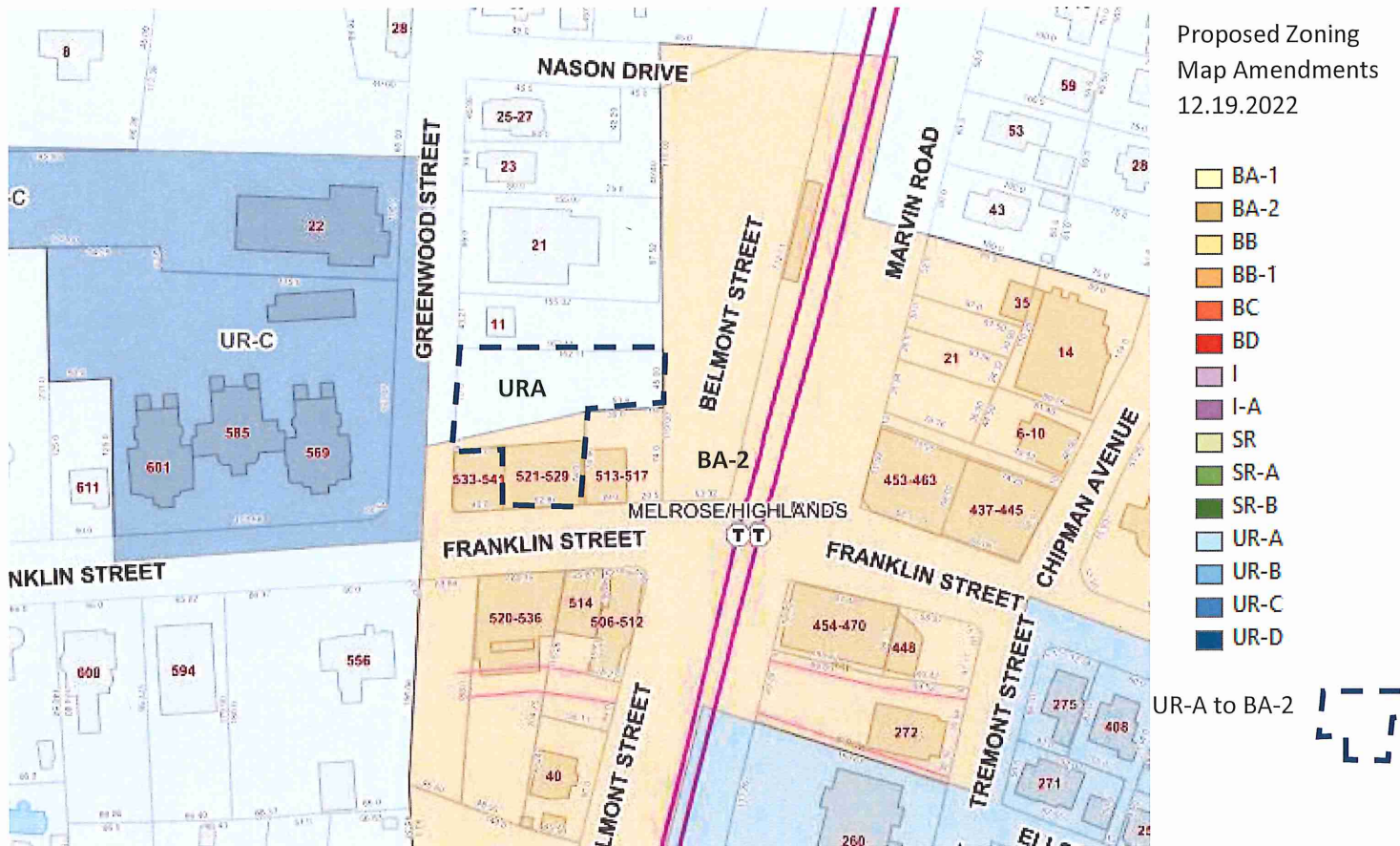
STRUCTURE - A combination of materials ~~for permanent or temporary occupancy or use~~ that are constructed or erected on the ground, such as but not limited to a building, bridge, trestle, tower, framework, ~~retaining wall~~, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool and equipment, shelters, piers, wharves, bin, ~~fence~~, and sign ~~or the like~~.

BA-2 Zoning District Line Change at 521-529 Franklin St.

Article III. Establishment of Districts

§235-8 Changes to map

The location and boundaries of the zoning districts are hereby amended as shown on a map titled "Zoning Map of the city of Melrose, Massachusetts," dated ____.



Definition of Retail Food Establishment

Amend Chapter 235, ARTICLE II Word Usage and Definitions, SECTION 235-5, Definitions as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

RETAIL FOOD ESTABLISHMENT- A retail store selling food products, not to be consumed on the premises, which shall include but not be limited to one or more of the following: fresh cheese, fresh meat or delicatessen products, freshly prepared baked goods or confections, natural and organic food or beverages, and which may also sell, incidental to the sale of food products therein, ~~wines and malt beverages~~, alcoholic beverages for off premises consumption; but not tobacco products, lottery tickets, pharmacy items, toiletries, personal care products or photographic supplies or services. The term "retail food establishment" as used herein shall further comport with the definition of "establishment" as defined in Chapter 327 of the Acts of 2008.

In-law Apartment Definition Zoning Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION §235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

IN-LAW APARTMENT

A dwelling unit either contained within an owner-occupied one-family ~~structure~~ dwelling (such as, but not limited to, a cellar or attic) or attached thereto (such as, but not limited to, a garage or barn) which constitutes separate living facilities for immediate members of the family, such as a mother and/or father or a son and/or daughter or their respective spouses. See "dwelling unit" as defined in this section.

A. An accessory in-law apartment is a separate, subordinate living area constructed as part of an existing owner-occupied one-family dwelling and built in a manner which maintains the appearance of a ~~single family structure~~ one-family dwelling.

B. There shall be no boarders or lodgers within either unit of a dwelling with an accessory in-law apartment.

C. No accessory in-law apartment shall be constructed without a building permit issued by the Building Inspector.

D. No use as an accessory in-law apartment shall be permitted prior to a certificate of occupancy by the Building Inspector.

E. A certificate of occupancy shall be issued for three years. Continued occupancy shall require issuance of a new certificate of occupancy.

F. ~~The dwelling unit shall be located within the single family dwelling as it existed on January 1, 1990.~~

G. The dwelling unit shall occupy no more than 1/3 of the structure's gross floor area ~~as of January 1, 1990.~~

Votes for Special Permit Approval & Term

Amend Chapter 235, ARTICLE XI, Special Permits and Conditions, SECTION 235-62, Special Permit Procedure as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

F. Vote. A concurring vote of all but one of the members of the Board of Appeals is required to grant a special permit or variance by said Board, and two-thirds concurring vote of the Planning Board is required to grant a special permit by said Board except when only a simple majority is required for multifamily housing, mixed-use development in centers of commercial activity within a municipality, and reduced parking space to residential unit ratio requirement, all pursuant to the specifications in Section 9 of the Zoning Act.

G. Certification and recording of special permit or variance. Any special permit or variance granted by a special permit granting authority shall be certified by said authority and show the name and address of the landowner or applicant if other than the owner. The notice of special permit shall identify the land affected, set forth compliance with statutory prerequisites and state that a special permit has been granted and certify that copies of the decision and all plans referred to in the decision have been filed with the City Clerk and the Planning Board. No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the City Clerk that 20 days have elapsed and no appeal has been filed or, if such appeal has been filed, that it has been dismissed or denied is recorded in the Registry of Deeds with the date and time of such recording and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. A special permit granted under this chapter shall lapse in ~~two~~ three years, which shall not include such time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

Site Lines and Fence Height in Front Yards on Corner and Non-Corner Lots

Amend ARTICLE VI, Dimensional and Density Regulations, SECTION §235-25.K and §235-25.L, Additional dimensional and density provisions, as follows.

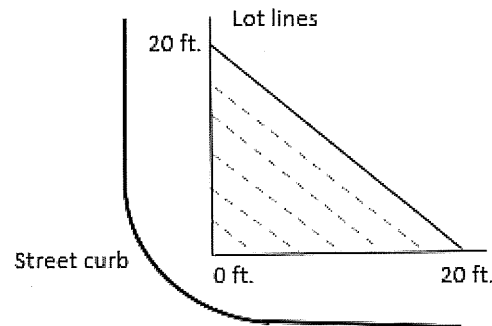
Text that is removed is ~~crossed out~~ and additions are underlined.

Section §235-25.K.

At no street intersection in any district shall any new or replacement organic material, excepting a lawn or ground cover, be planted or permitted to grow, nor any obstruction to vision exceeding the lesser of three feet in height above the plane established by the intersecting streets or 30 inches above the sidewalk be placed, nor shall existing organic material be permitted to grow above such height, on any lot within the triangular area formed by the intersecting curbs at a distance of 25 feet from the corner. Where curbs do not exist, measurement shall be made along edge of pavement.

K. For a corner lot in a district with a required front yard setback, a fence, wall, or other structure shall not exceed three feet in height above the plane of the intersecting streets herein (also see §202-4.1):

- a) Within the triangular area formed by measuring 20 ft. from the intersection of the property lot lines and bounded by a straight line connecting the two points.
- b) Notwithstanding §235-25.K(a), if a fence, wall, or similar structure is setback three feet from the lot line in the side yard as designated in §235-25.C they are exempt from the height restrictions in this section; and
- c) Otherwise, §235-25.L applies.



Section §235-25.L

A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot, provided that in the front yard area no such structure or vegetation shall be over three feet in height above the adjacent ground within five feet of the front lot line unless it can be shown that such vegetation will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street.

L. For a non-corner lot, a fence, wall, or similar structure within the required front yard setback or from the front lot line to the line of the existing primary structure, whichever is less, shall not exceed three feet in height (also see §202-4.1(B)). Height is measured from the grade of land where the structure is installed. Existing retaining walls may be replaced in kind.

Site Plan Review Amendment

Amend ARTICLE V, Use Regulations, SECTION §235-16.1.E(5), Site plan review, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

E.5 Convenience and safety of vehicular and pedestrian movement within and around the site and of the location of buildings, fences, walls, or other structures, and driveway openings, in relation to traffic and/or adjacent streets.

Vegetation Height for Corner Lots & in Yards along Streets - General Code Amendment

Insert ARTICLE I, General Provisions, SECTION §202-4.1 Vegetation Height, as follows.

Text that is removed is ~~crossed-out~~ and additions are underlined.

§202-4.1 Vegetation Height

A. For a corner lot, a hedge shall not exceed three feet in height above the plane of the intersecting streets, and/or any other leafy vegetation shall be maintained so as not to obstruct vision herein:

- i. Within the triangular area formed by measuring 20 ft. from the intersection of the property lot lines and bounded by a straight line connecting the two points.
- ii. Outside of the triangular area, §202-4.1(B) applies.

B. For all lots, a hedge shall not exceed three feet in height within three feet of the property line in the yard adjacent to the street and any other leafy vegetation shall be maintained so as not to obstruct vision of the public way. Height is measured from the grade of land where the vegetation is installed.

C. For existing vegetation, the determination regarding if vegetation is obstructing vision at an intersection or of the public way shall be at the discretion of the Director of Public Works,

Unit Size Amendment

Amend ARTICLE VI, Dimensional and Density Regulations, SECTION §235-25.I, Additional dimensional and density provisions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

Section §235-25.I

The gross floor area of each one family detached dwelling and per dwelling unit in a two family dwelling shall not be less than 768 square feet. The gross floor area in a multifamily dwelling shall not be less than 450 square feet for one bedroom dwelling units, 600 square feet for two bedroom units and 768 square feet for three bedroom or larger units.

Definitions of Family & Dwelling Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION §235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

Section §235-5

APARTMENT HOUSE

A building designed or intended or used as the home or residence of three or more families, each in a separate dwelling unit, living independently of each other, and who may have a common right in halls and stairways.

FAMILY

An individual or two or more persons related by blood or marriage living together as a single housekeeping unit and including necessary domestic help, such as nurses or servants, and further including, provided that the dwelling is owner occupied, not more than three lodgers or roomers taken for hire. A group of individuals (including necessary domestic help, such as nurses or servants, but excluding lodgers or roomers taken for hire) not related by blood or marriage but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of four individuals shall constitute a single family.

DWELLING, ONE-FAMILY

A building containing one dwelling unit.

DWELLING, TWO-FAMILY

A building containing two dwelling units.

DWELLING, MULTIFAMILY

A building containing three or more dwelling units and including an apartment house, garden apartment house and multifamily dwellings

Amend Table of Use and Parking Regulations, SECTION 235 attachment 1, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

Table of Use and Parking Regulations

Principal Use	Residential Districts						Business Districts					Industrial Districts		Parking Code (see § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	URC UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
5. Apartment house	—	—	—	—	S	P	—	—	—	—	P	—	—	B

Zoning Amendment Package 2023

Office of Planning and Community Development

March 6, 2023

Overview

The proposed changes seek to clarify sections of the zoning ordinance for:

1. Easier interpretation and understanding
2. Compliance with MA General Laws
3. Reduction in number of variance requests for violations regularly approved by the Board of Appeals

10 Proposed Zoning Amendments

- Corner Lot Setbacks
- Structure Definition
- BA-2 Zoning District Line Change at 521-529 Franklin St.
- Retail Food Establishment Definition
- In-law Apartment Definition
- Votes for Special Permit Approval & Term
- Sight Lines and Fence Height in Front Yards on Corner & Non-Corner Lots
- Site Plan Approval Criteria
- Unit Size
- Family & Dwelling Definitions

1 Proposed General Code Amendment

- Vegetation Height for Corner Lots & Yards along Streets

Corner Lot Setbacks

Proposal: Amend Sections 235-5 *LOT, CORNER* and *LOT LINE, REAR* Definitions & 235-25.C, Additional dimensional and density provisions relating to corner lots

Corner Lot Setbacks

- This amendment allows properties on corner lots to have similar side yard setback requirements as those properties that are not at the intersection of streets
- In the Planning Board’s review of corner lot properties, allowing for side yard setback distances by Variance has not been detrimental to the streetscape or abutting properties
- Two yards often function as side yards and changing the ordinance allows the Owner to build a structure consistent with the use of the yard
- Removing the need for a Variance eliminates a hardship for the Owner
- Identified as an action item in the Melrose Forward Master Plan

Year	Number of Related Variance Cases	% ZBA Approved
2017	1	100%
2018	6	83%*
2019	10	100%
2020	8	75%**
2021	12	83%***
2022	1	100%

* 1 case was withdrawn
** 1 case denied due to other relief requested & 1 withdrawn
*** 1 case denied due to rear yard issue & 1 withdrew

Corner Lot Setback Example— 101 Sycamore Rd.

Address: 101 Sycamore Road

Description: Remove side deck and build an attached garage in front & rear yard (Bow St. and yard opposite Sycamore Rd.)

Zone	Front	Side	Rear
SR-B	Yard Setback(ft)	Yard Setback (ft)	Yard Setback (ft)
Required	20	12	30
Existing	22	-	30
Proposed	12.3	-	25.6

Relief Required: Variance

As a result of amendment: If the front yard (Bow St.) is considered a side yard this proposal would be by-right.





Corner Lot Setback Example– 280 First St.

Description: Build 2-story addition in front & rear yards (Highview Ave and yards opposite Highview Ave and First St.)

Zone	Front	Side	Rear
UR-A	Yard Setback(ft)	Yard Setback (ft)	Yard Setback (ft)
Required	20	10	20
Existing	12.9 (Highview Ave)	-	9
Proposed	14	-	9

Relief Required: Variance

As a result of amendment:

Change to front yard: If the front yard is considered a side yard this proposal would be by-right.

Change to rear yard: If the yard with the shallower depth is considered a side yard & yard with the deeper depth shall be considered a rear yard, the proposal would be by-right if it was reduced by 1 ft.



Structure Definition

Proposal: Amend Section 235-5 *STRUCTURE* Definition

Structure Definition

- The Zoning Ordinance currently defines retaining walls and fences as structures triggering accessory building/structure setback requirements per Section 235-24.B unless exempted by variance

ACCESSORY BUILDINGS AND OTHER STRUCTURES DIMENSIONAL REGULATION

District	Maximum Coverage (percent of required rear yard area) ¹	Distance From Lot Line (feet)		Building Height (feet)
		Front	Side and Rear	
SR	25%	20	10	20
SR-A	25%	20	10	20
SR-B	40%	15	10	20
UR-A	50%	15	4 ²	20
UR-B	50%	15	4 ²	20
UR-C	50%	15	4 ²	20
UR-D	50%	15	4 ²	20

Structure Definition

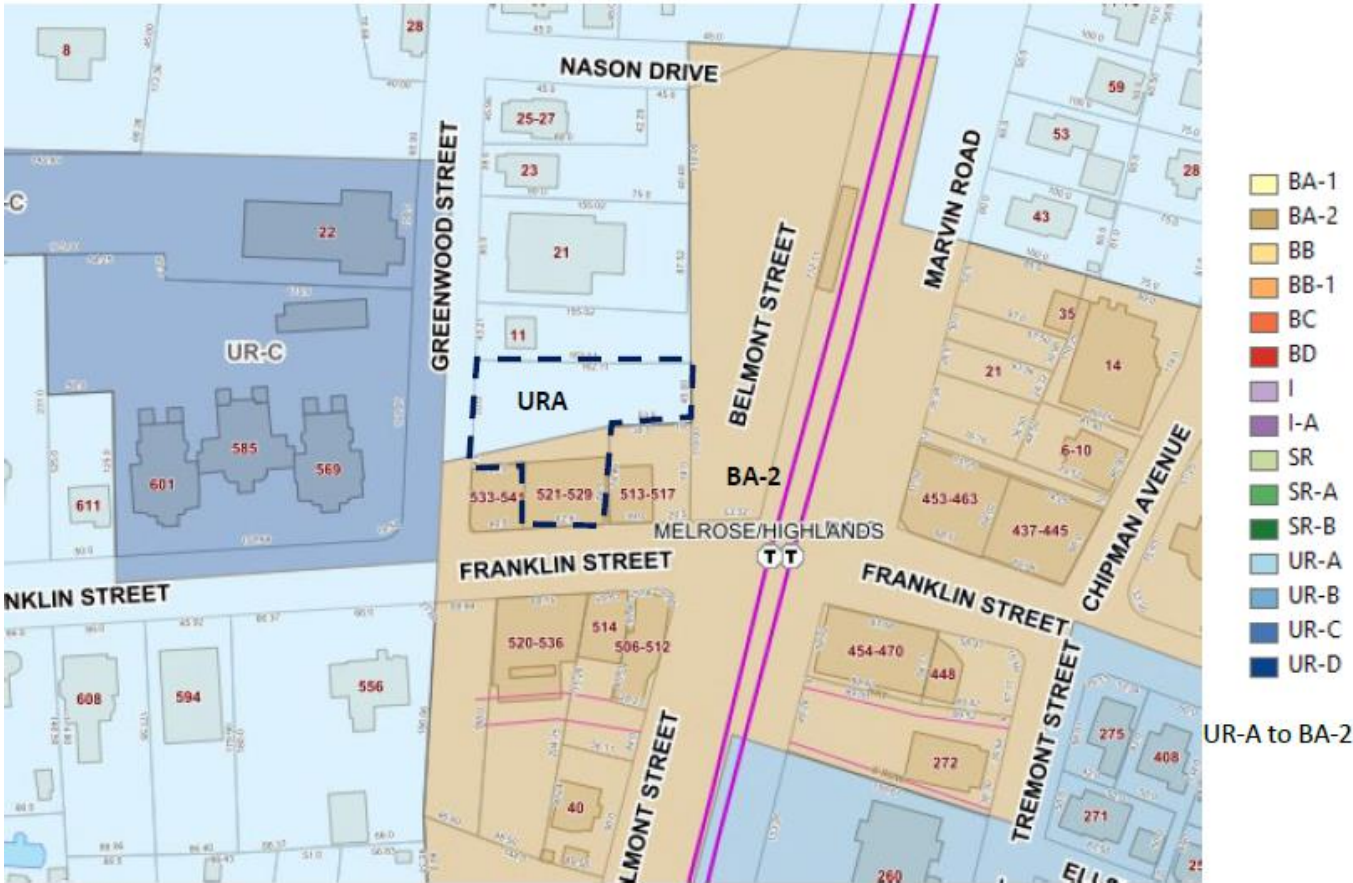
- Retaining walls & fences are often on or close to a property line and it was likely not the intent of the regulation for setbacks to apply
- Removing retaining wall and fence from the definition of structure will resolve this issue

BA-2 Zoning District Line Change at 521-529 Franklin St.

Proposal: Amend Section 235-8 Changes to map

BA-2 Zoning District Line Change at 521-529 Franklin St.

- 521-529 Franklin St. is split into two zoning districts: BA-2 and URA
- The split zoning complicates refinancing and insuring this property
- The best use of this property is in line with uses permitted in the BA-2



Retail Food Establishment Definition

Proposal: Amend Section 235-5 *RETAIL FOOD ESTABLISHMENT* Definition

Retail Food Establishment Definition

- This amendment updates the definition of retail food establishment to allow for the sale of alcoholic beverages for off premise consumption in line with the City's new liquor laws

In-law Apartment Definition

Proposal: Amend Section 235-5 *IN-LAW APARTMENT* Definition

In-law Apartment Definition

- The definition of in-law apartments is overly restrictive as it prohibits this use in houses that have had additions or alterations after January 1, 1990
- Removing Section F & revising Section G will allow for alterations and additions, while still restricting the size of the unit
- Additions would need to conform to dimensional regulations in the district & a special permit is still required for the use

SECTION 235-5

IN-LAW APARTMENT

~~F. The dwelling unit shall be located within the single-family dwelling as it existed on January 1, 1990.~~

G. The dwelling unit shall occupy no more than 1/3 of the structure's gross floor area ~~as of January 1, 1990.~~

In-law Apartment Definition

- The Board of Appeals has approved variances from this provision on several occasions to permit in-law apartments where all other provisions are met
- This amendment is also identified as an action item in the Melrose Forward Master Plan

Housing

Recommendations

Goal 1: Encourage the creation of housing units that are affordable to a broad range of incomes.

Strategy 1.1: Promote regulations that permit a variety of residential types, ensuring Melrose residents of all ages and incomes can remain in Melrose.

Action 1.1.1: Consider amending the Zoning Ordinance to decrease restrictions on in-law apartments.

Votes for Special Permit Approval & Term

Proposal: Amend Section 235-62 Special Permit Procedure

Votes for Special Permit Approval & Term

Votes for Approval

This amendment updates the zoning ordinance to be consistent with the recent changes to MGL Chapter 40A including:

- Reducing number of votes to grant zoning approvals related to multifamily housing, mixed-use development, and reduced parking, from 2/3 supermajority to simple majority

Special Permit Term

This amendment increases the time allowed to exercise a special permit reflecting an opt-in change to MGL Chapter 40A from 2 to 3 years

Sight Lines and Fence Height in Front Yard on Corner and Non-Corner Lots

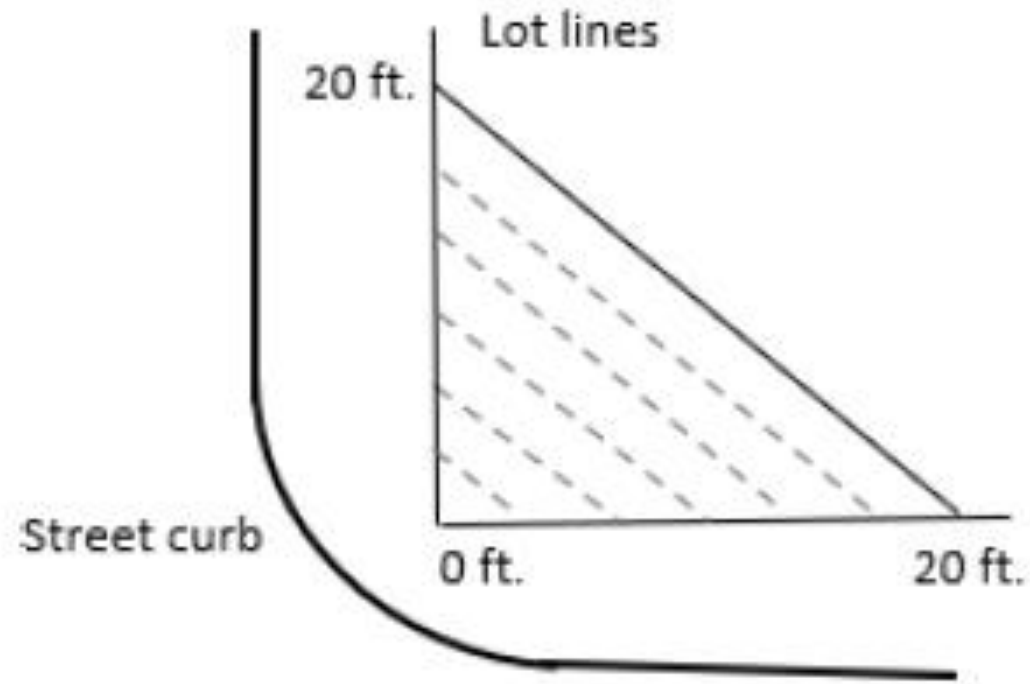
Proposal: Amend Section 235-25.K and 235-25.L

Sight Lines and Fence Height in Front Yard on Corner and Non-Corner Lots

- OPCD has received requests from the public and elected officials to clarify Sections 235-25.K &-25.L of the code which are confusing and easily misinterpreted
- The purpose of these regulations is to ensure visibility and safety by regulating the height of fences and other structures on corner lots and in front yards and to maintain an interesting streetscape

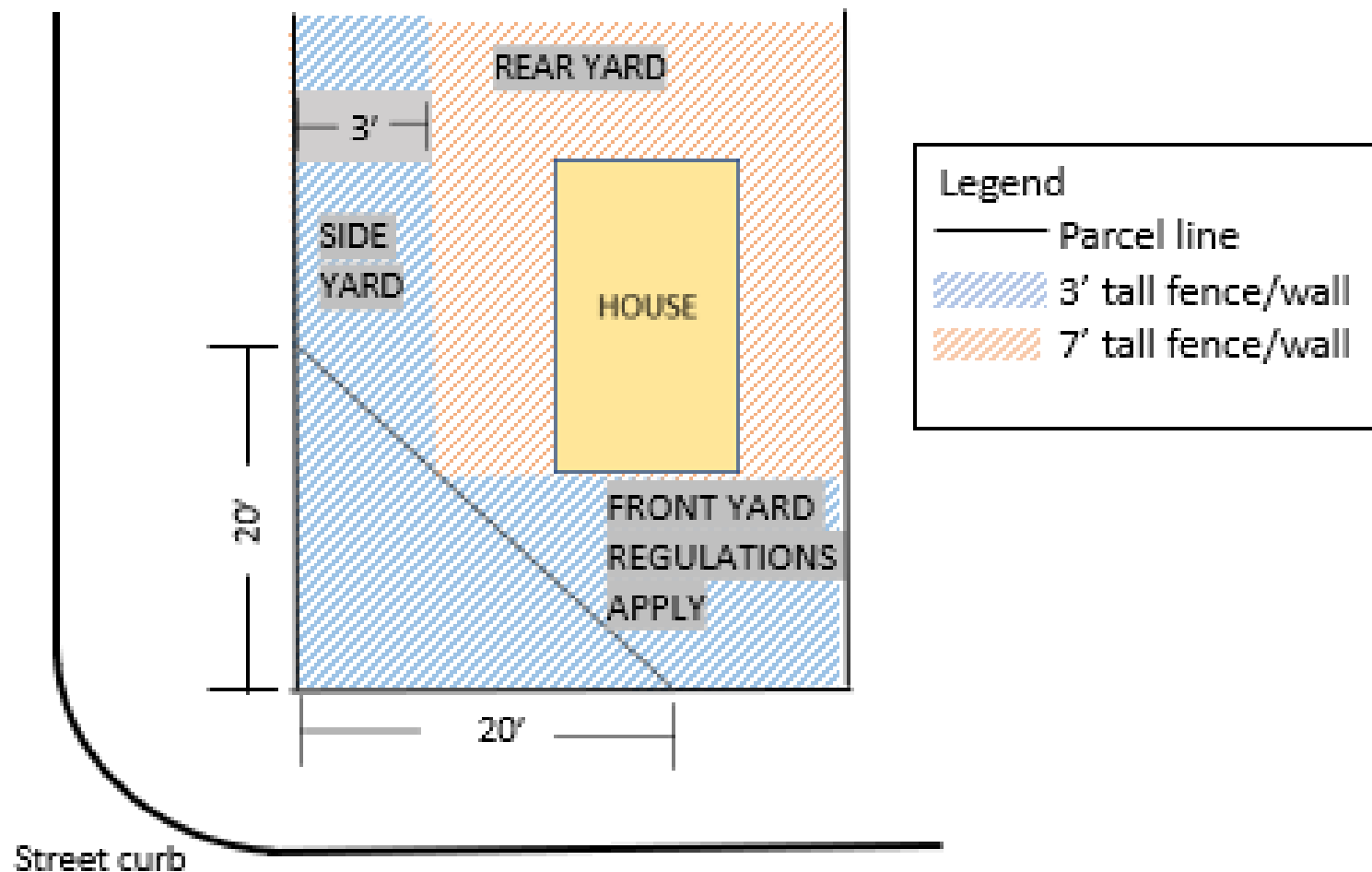
Sight Lines and Fence Height in Front Yard on Corner Lots

- The proposed measurements were carefully selected based on the existing code, codes in other cities and towns, traffic safety regulations, and a setback analysis conducted by OPCD Staff
- The amendment proposes that within a triangular area formed by measuring 20 ft. from the intersection of the property lot lines, a structure cannot exceed 3 ft. in height



Sight Lines and Fence Height in Front Yard on Corner Lots

- Beyond the triangular area
 - In the side yard structures may be taller if they are setback 3 ft. from the property line
 - In the front yard structures follow the front yard regulations

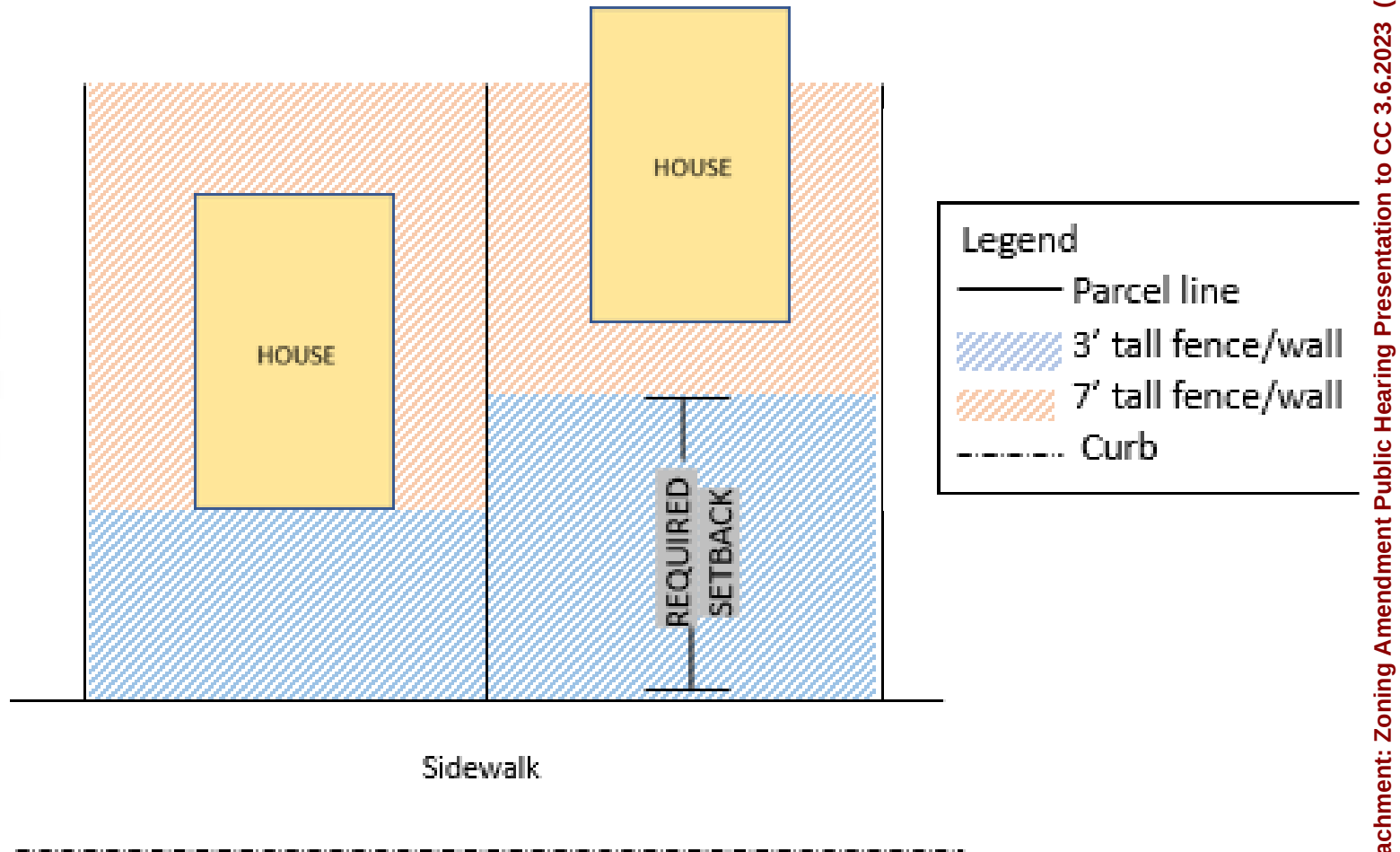


Sight Lines and Fence Height in Front Yard on Corner Lot-- Do's and Don'ts



Sight Lines and Fence Height in Front Yards on Non-Corner Lots

- For non-corner lots, the amendment proposes that within the front yard setback or from the line of the existing primary structure to the lot line (whichever is less), a fence, wall, or similar structure will not be taller than 3 ft.
- Beyond the setback or the line of the existing primary structure, fences and walls may be up to 7 ft. tall



Sight Lines and Fence Height in Front Yard -- Do's and Don'ts



Site Plan Review Criteria

Proposal: Amend Section 235-16.1.E(5) Site Plan Approval

Site Plan Approval Criteria

- In relation to Section 235-25.K & - 25.L, in districts where no setback from the property line is required, attention should be given to the safety of travel around corner sites during the Site Plan Review process

SECTION §235-16.1.E(5)

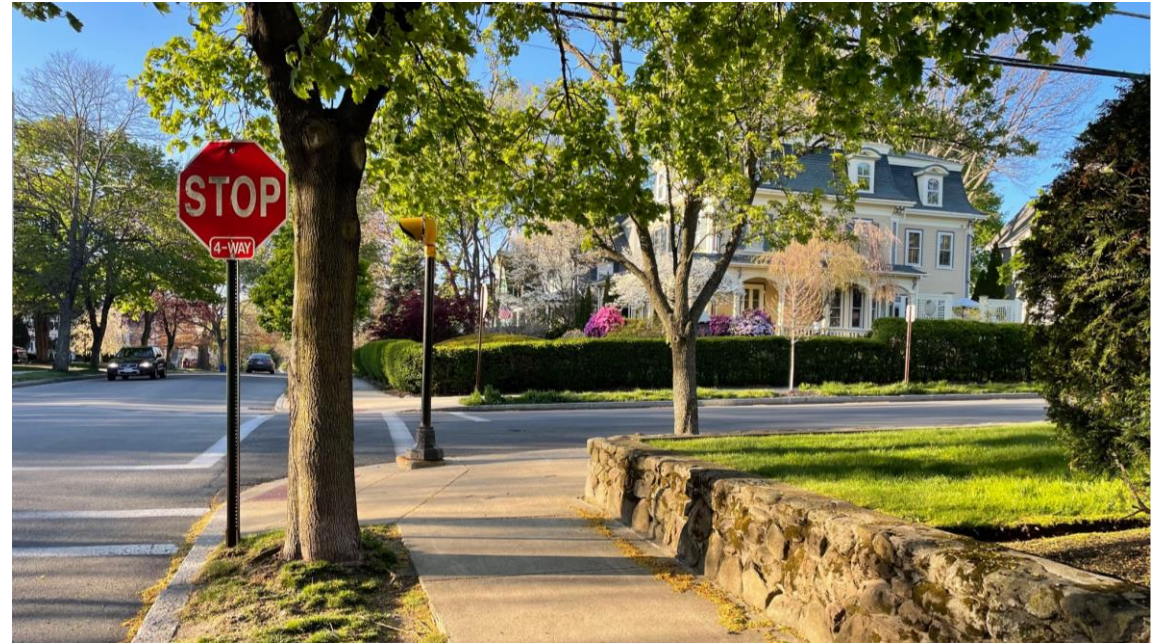
E.5 Convenience and safety of vehicular and pedestrian movement within and around the site and ~~of~~ the location of buildings, fences, walls, or other structures, and driveway openings, in relation to traffic and/or adjacent streets.

Vegetation Height for Corner Lots & in Yards along Streets

Proposal: Amend General Code to include vegetation height and shift enforcement from Building Inspector to Department of Public Works

Vegetation Height for Corner Lots & in Yards along Streets

- Vegetation is proposed to be moved from Sections 235-25.K & -25.L of the MZO to the General Code shifting enforcement responsibility from the Building Commissioner to the DPW, which oversees vegetation maintenance throughout the City
- In removing vegetation from the zoning ordinance, existing vegetation will not be deemed legally nonconforming, allowing for enforcement of new and existing vegetation
- The Director of Public Works may use discretion in determining if existing vegetation creates a safety hazard



Vegetation Height for Corner Lots & in Yards along Streets

- Hedges & any other leafy vegetation are regulated to:
 - Promote driver and pedestrian safety by ensuring no obstructions in the public way
 - Maintain an interesting, pedestrian friendly streetscape

Vegetation Height for Corner Lots & in Yards along Streets

- Hedges can be up to 3 ft tall and leafy vegetation cannot obstruct view within 3 feet of front yards or side yards
- This proposal also limits height following the same 20 ft. measurements for corner lots as Section 235-25.K



Unit Size

Proposal: Amend Section 235-25.1

Unit Size

- The zoning code's restrictions on dwelling unit size prevent the City from complying with DHCD's guidelines on the new multi-family zoning requirements for MBTA Communities (MGL Chapter 40A Section 3A)
- To comply, zoning cannot restrict the size of residential units
- The proposed amendment removes minimum unit sizes requirements from the code



City of Melrose, MA / Part II: General Legislation / Zoning
Article VI **Dimensional and Density Regulations**



§ 235-25 Additional dimensional and density provisions.

- I. The gross floor area of each one-family detached dwelling and per dwelling unit in a two-family dwelling shall not be less than 768 square feet. The gross floor area in a multifamily dwelling shall not be less than 450 square feet for one-bedroom dwelling units, 600 square feet for two-bedroom units and 768 square feet for three-bedroom or larger units.

Unit Size

There are several mechanisms that will be used to prevent overcrowding (a rare occurrence in Melrose):

- ✓ Health and State Building Code regulate minimum dwelling unit and bedroom sizes per occupant and other dimensional controls
- ✓ Zoning district regulations controlling the number of units include lot area, FAR, and/or height and setback restrictions
- ✓ Market demand controls unit size

235 Attachment 2

City of Melrose

Table of Dimensional and Density Regulations

[Adopted 4-6-2015 by Ord. No. 2015-90; 6-7-2021 by Order No. 2021-96]

District	Use	Minimum Lot Area (square feet or as noted)	Minimum Frontage and Lot Width (feet)	Minimum Lot Depth (feet)	Yards			Maximum Height (feet)	Maximum Stories	Maximum Coverage	Maximum Floor Area Ratio	Mini Op Sp
					Front (feet)	Side (feet)	Rear (feet)					
SR	Any permitted use	25,000	110	90	25	20	50	35	2 1/2	35%	None	50
SR-A	Any permitted use	15,000	100	90	25	15	40	35	2 1/2	35%	None	50
SR-B	Any permitted use	10,000	80	90	20	12	30	35	2 1/2	35%	None	40
UR-A	Townhouse	7,500 per dwelling unit	100	90	20	10 ¹	20	35	2 1/2	35%	None	35
	Two-family dwelling	13,500	100	90	20	10 ¹	20	35	2 1/2	35%	None	35
	Single-family dwelling	7,500	75	90	20	10	20	35	2 1/2	35%	None	35
	Any other permitted use	10,000	100	90	20	10	20	35	2 1/2	35%	None	35
UR-B	Single-family dwelling	7,500	75	90	20	10	15	35	2 1/2	50%	None	30
	Two-family and multifamily dwelling uses and townhouses	7,500 plus 3,000 for each dwelling unit more than 1	100	90	20	10 ¹	15	35	2 1/2	50% ²	None	30
	Any other permitted use	10,000	100	90	20	10 ¹	15	35	2 1/2	50%	None	20

Unit Size

- Eliminating unit size will allow the City to comply with MGL Chapter 40A Section 3A while still regulating density using other zoning provisions
- This will enable the City to have a variety of housing types in terms of size and cost, which is a goal of the Housing Production Plan

Housing Goals

MELROSEHPP

1. **Housing Mix.** Encourage a range of housing options and types to serve households with a variety of incomes and meet the diverse needs of current and future Melrose residents.
2. **Racial Equity.** Advance racial equity, promote inclusion, encourage wealth creation through housing access for people of color, and enrich the Melrose community through increased diversity.
3. **Affordable Housing.** Expand and preserve deed-restricted and subsidized Affordable Housing opportunities for low- and moderate-income households, including family households.
4. **Enhanced Neighborhoods.** Utilize housing as a tool to enhance existing Melrose neighborhoods, balancing development with other community priorities like open space, historic preservation, economic development, walkability, sustainability, and resilience.
5. **Community Engagement.** Promote an understanding of the role that housing plays in Melrose and the region through ongoing public engagement and discussion.

Family & Dwelling Unit Definition

Proposal: Amend Section 235-5 *APARTMENT HOUSE; FAMILY; DWELLING, ONE-FAMILY; DWELLING, TWO-FAMILY; DWELLING, MULTIFAMILY* Definitions & Amend Section 235 Attachment 1

Family & Dwelling Unit Definition

- To comply with DHCD's new multi-family zoning requirements for MBTA Communities, the definition of family needs to be amended as zoning cannot limit the number of occupants in a unit
- Restricting occupancy based on biological or legal relationships can be discriminatory and does not address the purposes of zoning
- Biological families can have the same, less, or more of an impact on traffic, parking, overcrowding, etc. than a non-traditional family living together as a household

← City of Melrose, MA / Part II: General Legislation / Zoning
Article II Word Usage and Definitions



§ 235-5 Definitions.

FAMILY

An individual or two or more persons related by blood or marriage living together as a single housekeeping unit and including necessary domestic help, such as nurses or servants, and further including, provided that the dwelling is owner-occupied, no more than three lodgers or roomers taken for hire. A group of individuals (including necessary domestic help, such as nurses or servants, but excluding lodgers or roomers taken for hire) not related by blood or marriage but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of four individuals shall constitute a single family.

Family & Dwelling Unit Definition

- The zoning code already defines Dwelling Unit and Multifamily Dwelling Unit
- Defining One-family and Two-family Dwelling Units instead of defining Family organizes the code in a more streamlined manner
- The Dwelling Unit definition establishes the primary intent of a residential unit being a space with complete living facilities occupied by people who share use of the space as a single housekeeping unit

← City of Melrose, MA / Part II: General Legislation / Zoning
Article II Word Usage and Definitions →

☐ § 235-5 Definitions.

DWELLING, MULTIFAMILY

A building containing three or more dwelling units and including an apartment house, garden apartment house and multifamily dwellings.

DWELLING UNIT

One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

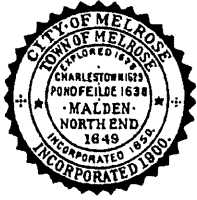
Family & Dwelling Unit Definition

- This amendment also strikes the definition of Apartment House from the zoning ordinance, the Table of Use and Parking Regulations, and the definition of Multifamily Dwelling
- The definition of Multifamily Dwelling duplicates the apartment house use rendering it obsolete
- The reference to garden apartment house is also eliminated from the definition of Multifamily Dwelling because it is no longer relevant

Amend Table of Use and Parking Regulations, SECTION 235 attachment 1, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

Table of Use and Parking Regulations														
Principal Use	Residential Districts						Business Districts					Industrial Districts		Parking Code (see § 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	URC UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
5. Apartment house	—	—	—	—	S	P	—	—	—	—	P	—	—	B



GREGORY SAMPSON
Chairman

CITY OF MELROSE

PLANNING BOARD

City Hall, 562 Main Street
Melrose, Massachusetts 02176
Telephone - (781) 979-4190
Fax - (781) 979-4290

March 27, 2023

The Honorable City Council
Of the City of Melrose, Massachusetts

Re: Report to City Council on Order 2023-59, Amending Melrose Revised Zoning Ordinance, Chapter 235, Various Provisions

To the Members of the City Council:

Pursuant to Massachusetts General Laws, Chapter 40A, Section 5, the City Council held a public hearing on the above-reference zoning amendments on March 6, 2023. The proposed amendments were initiated by the Planning Board to clarify sections of the code for easier interpretation and understanding, ensure compliance with Massachusetts General Laws, and reduce the number of variance requests for violations that are regularly approved by the Board of Appeals. City Councilors had questions and comments regarding the proposed amendments, which were discussed at the public hearing. No one from the public appeared to comment or submitted written comments.

The Planning Board held a public hearing on the above-referenced zoning amendments on March 13, 2023, at the request of the City Council to hold separate hearings. No one from the public appeared to comment or submitted written comments. Members discussed the questions and comments raised by the City Councilors and responded to the feedback as detailed below.

Deed Restrictions for Properties with In-Law Apartments

Members of the City Council questioned if there should be deed restrictions for properties with In-Law Apartments. It was clarified that to establish an In-Law Apartment, Applicants must apply to the Board of Appeals for a special permit. Applicant must record the Board of Appeals' decision at the Registry of Deeds, which would appear during a title search.

In-Law Apartments Special Permits and Variances

Members of the City Council inquired about the volume of requests for variances for In-Law Apartments. Planning Staff determined that there have been 14 applications for In-Law Apartments since 2010, 8 of which required variances from §235-5 Definition of In-Law Apartments Standards F & G. All but one application was approved. The number of requests for In-Law Apartments is, on average, approximately one application per year. The proposed amendment is not expected to increase the volume in any meaningful way.

BA-2 Zoning District Line Change at 521-529 Franklin Street

Members of the City Council questioned whether a proposal to change the lines of a zoning district should be included in this package of zoning amendments. The Planning Board noted that it is a best practice to have zoning districts follow parcel lines to avoid parcels being split into two different districts. In this instance, the direct abutters on either side of the property are commercial buildings and there are many other commercial and mixed uses in the direct vicinity, so the BA-2 designation for the entire parcel is logical and desirable. Furthermore, although not required by law, the Planning Office mailed notices with information about the amendments to abutters within 300 feet of the subject parcel. No comments from the public were received. The Planning Board continues to recommend including this district line change with the package of zoning amendments.

Translations for Proposed Amendments

The Planning Board discussed a comment by City Councilors regarding the accessibility of the zoning code and if the regulations were available in languages besides English. It was noted that the regulations are hosted on the Ecode360 website where the City Charter and most City Codes can be found. On the Ecode360 website there is a Google Translate tool available. Planning Staff suggested that the City could prepare written guidance for the public on specific provisions such as the updated fence and vegetation regulations and consider how best to offer the information in multiple languages.

Corner Lot Setbacks

Members of the City Council requested that the changes proposed for corner lots be reviewed for public safety. Planning Staff reviewed this amendment with the Police Chief and the Fire Chief and neither official expressed any concern. Both agreed that the recommended amendment is logical and will not create any safety hazards.

Differences Between a Lodging House/Unit and a Dwelling Unit

A member of the City Council inquired about the differences between lodging houses/units, and dwelling units. The Planning Board reviewed the definitions of “Dwelling” and “Dwelling Unit” in the Melrose Zoning Ordinance which are defined as follows:

- DWELLING: A privately or publicly owned permanent structure, whether owned by one or more persons or in condominium, which is occupied in whole or in part as the home residents or sleeping place of one or more persons. The term ‘one-family, two-family or multifamily dwelling’ shall not include a hotel, lodging house, hospital, membership club, mobile home or dormitory.
- DWELLING UNIT: One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

The definition of “Dwelling” specifically states that lodging houses are disparate from dwellings. Additionally, “Dwelling Units” are constituted by single housekeeping units.

The Planning Board also reviewed the definitions of “Lodging Unit” and “Lodging House” in the Melrose Zoning Ordinance which are defined as follows:

- LODGING UNIT: One or more rooms for the semi-permanent use of one, two or three individuals not living as a single housekeeping unit and not having cooking facilities. ‘Lodging unit’ shall include rooms in boardinghouses, lodging houses, tourist homes, or rooming houses. It

shall not include convalescent, nursing or rest homes; dormitories of charitable, educational or philanthropic institutions; or apartments or hotels.

- LODGING HOUSE: A building containing four or more lodging units.

Residents in “Lodging Units” are not living as single housekeeping units as they would be in a “Dwelling Unit.” Additionally, “Lodging Units” do not have cooking facilities whereas “Dwelling Units” must provide complete and permanent living facilities including provisions for cooking. Also, lodging houses require a license from the City Council and are only allowed in a few zoning districts. The Planning Board feels that the Melrose Zoning Ordinance clearly differentiates between lodging houses/units, and dwelling units and does not recommend any further changes.

Replacement of Existing Fences in Accordance with New Regulations

Members of the City Council wondered if property owners would be allowed to replace existing fences in-kind if they do not conform to the new regulations. The Planning Staff consulted with the Building Commissioner on this question. He explained that there are regulations on fence height and setbacks in the current code so fences that do not currently conform may be illegal. Fences that conformed to the old code and not the new code would be considered legally nonconforming and protected; however, if the fence was completely reconstructed it would need to comply with the new code. Repairing sections of a legally pre-existing nonconforming fence would be allowed by-right. The Building Commissioner confirmed that compliance with these regulations is primarily driven by complaints and that the City does not typically receive many fence complaints.

Front Yard Fence Height

A member of the City Council suggested that the proposed 3-foot front yard fence height may be too low for residents with pets. Pets that can jump over a 3-foot fence would either have to be kept in the side or rear yards or restrained by leash or other means. Alternatively, residents could request a variance from the proposed amendment in special cases where a taller front yard fence may be needed. The Planning Board continues to feel that the provision for 3-foot fence height in the front yard is reasonable and benefits the streetscape without limiting the use of pet owners’ properties.

Special Permit Timeline

Members of City Council questioned if it is beneficial to increase the special permit timeline to three years. The Planning Board discussed how once projects are approved by the Planning Board or Zoning Board of Appeals, it often takes time to gather and complete all the necessary materials to obtain a building permit. In some cases, extending the special permit timeline may result in the development moving forward more quickly because the Applicant may not have to return for a new hearing due to an expiration of the project’s permit.

This proposed amendment does not affect the timelines for variances or site plan approvals. Variances will still expire after one-year if unexercised, with the possibility of a six-month extension if requested prior to expiration. Site plan approvals are valid for two years with the possibility of an extension for good causes with a written request to the Planning Board.

Report to Members of the Council on Order 2023-59
March 27, 2023
Page 4 of 4

To summarize, the Planning Board does not recommend making any changes to the package of proposed zoning amendments originally submitted and reviewed during two separate public hearings. The Planning Board finds that the proposed zoning amendments are reasonable, fair and provide clarity. The amendments will create a more user-friendly code that complies with the Massachusetts General Laws and reduces the number of variance requests; this will in turn benefit both the Board of Appeals and residents by alleviating a significant financial and administrative burden. The Planning Board respectfully recommends that the City Council vote in favor of adopting the proposed zoning amendments as submitted and dated January 31, 2023.

If you have any further questions, or we can provide any additional information, please do not hesitate to contact us. We would be pleased to make ourselves available to you as you continue to deliberate on this issue.

Very truly yours,


Gregory Sampson
Chairman

Attachment: Proposed Zoning Amendments, January 31, 2023

cc: Mayor Paul Brodeur
Shannon Phillips, City Solicitor
Albert Talarico, Building Commissioner
Denise Gaffey, City Planner
Members of the Planning Board
Members of the Board of Appeals

Attachment: 2023 PB Report to the CC Final (ORDER-2023-59 : Zoning Amendments)



CITY OF MELROSE

PLANNING BOARD

GREGORY SAMPSON

Chair

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Melrose, Massachusetts 02176

Telephone - (781) 979-4190

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January 31, 2023

The Honorable Mayor Brodeur and
The Honorable City Council
of the City of Melrose, Massachusetts

RE: Proposed Zoning Amendments

To His Honor and the Members of the Council:

At its meetings on December 19, 2022 and January 23, 2023, the Planning Board voted to submit the attached zoning amendments to the City Council. These proposed changes seek to clarify sections of the code for easier interpretation and understanding, ensure compliance with Massachusetts General Laws, and reduce the number of variance requests for violations that are regularly approved by the Board of Appeals. The purpose and reasoning behind each proposed amendment will be described in detail below.

Corner Lot Setbacks

The purpose of this amendment is to allow properties on corner lots to have similar side yard setback requirements as those properties that are not at the intersection of streets. In the Board's extensive review of corner lot properties, allowing for side yard setback distances on corner lots by Variance has not been detrimental to the streetscape or to the abutting properties. Two yards often function as side yards and allowing for a side yard setback in these locations provides the Owner space to build a structure that is consistent with the use of the yard while not creating negative impacts to the rhythm of buildings on the block.

Changing the Ordinance to allow for side yard setbacks will remove the need for many cases to obtain a Variance for corner lot setback relief. Since 2017, 38 cases have been brought before the Board of Appeals for variances related to a hardship imposed by the corner lot setback requirements. Removing the need for this permit reduces the Owners' administrative work, uncertainty, cost and extended permitting time that is associated with construction on corner lots. This amendment is also identified as an action item in the Melrose Forward Master Plan.

Structure Definition

The Melrose Zoning Ordinance (MZO) currently defines retaining walls and fences as structures. MZO §235-24.B, Accessory Buildings and Other Structures, requires

Attachment: Final Package (ORDER-2023-59 : Zoning Amendments)

accessory structures to be governed by regulations for an accessory building unless specifically exempted by a variance. Oftentimes fences and retaining walls are therefore required to have an accessory structure setback from property lines. Since it is a typical condition for a retaining wall or fence to be on or close to a property line, it was likely not the intent of the regulation for accessory structure setback to apply to them. Removing retaining wall and fence from the definition of structure will resolve this issue.

BA-2 Zoning District Line Change at 521-529 Franklin St.

521-529 Franklin Street (parcel B12 058) is split into two zoning districts. The front of the parcel facing Franklin Street is in BA-2, while most of the parking lot to the rear is in UR-A. The property owner requested that the entirety of the lot be brought into BA-2 explaining that refinancing and insuring the property is complicated by the split zoning and the best use of the property is in line with uses permitted in BA-2.

Definition of Retail Food Establishment

This amendment updates the definition of retail food establishment to allow for the sale of alcoholic beverages for off premise consumption, which reflects the recent change in the City's liquor laws.

Definition of In-law Apartment

The definition of in-law apartments in the MZO has been found to be overly restrictive and creates undue hardship for many applicants who wish to create a dwelling unit for a family member in their home or attached to their home. The provision requiring the unit to be located within the single-family dwelling as it existed on January 1, 1990, is limiting and prohibits additions to accommodate in-law apartments. The Board of Appeals has approved variances from this provision on several occasions to permit in-law apartments and allow for this reasonable use where all other provisions are met.

This amendment strikes paragraph F from the definition and modifies paragraph G to address this issue. Removing paragraph F will allow for alterations and additions to existing single-family houses to accommodate in-law apartments. Revising paragraph G would continue to restrict the size of the unit in relation to the existing single-family home; additions would need to conform to the dimensional regulations within the district; and a special permit from the ZBA is still required for all in-law apartment proposals. This amendment is also identified as an action item in the Melrose Forward Master Plan.

Votes for Special Permit Approval & Term

Votes for Approval

This amendment updates the MZO to be consistent with recent changes to MGL C.40A (the Zoning Act) and reflect State regulations. Chapter 358 of the Acts of 2020 made several amendments to Chapter 40A, including: (1) changes to section 5 to reduce the number of votes required to enact certain kinds of zoning ordinances and bylaws from a $\frac{2}{3}$ supermajority to a simple majority; and (2) changes to section 9 making similar changes to the voting thresholds for the issuance of certain kinds of special permits.

Changes to the MZO related to Zoning Amendment voting is not needed because the language just references Section 5 of the Zoning Act.

Special Permit Term

This amendment increases the time allowed to exercise a special permit, which reflects another recent change to the Zoning Act. Chapter 219 of the Acts of 2016 increased the timeframe to exercise a special permit from two to three years. Municipalities are not obligated to adopt the longer timeframe, however, increasing the special permit term is more accommodating while conforming to the MGL.

Site Lines and Fence Height in Front Yards On Corner and Non-Corner Lots

The language in Sections 235-25.K and 235.25.L of the Zoning Ordinance is confusing and unclear. The Office of Planning and Community Development has received calls from residents attempting to understand this section of the code, which is easily misinterpreted and difficult to follow. Councilor McMaster also requested that the language in sections §235-25.K & §235-25.L be revised prompting the proposed amendment which provides clearer and more manageable instruction.

Site Plan Review Criteria

In relation to the amendment above, in districts where no setback from the property line is required, attention should be given to the safety of travel around corner sites with relation to the location of buildings and driveway openings during the Site Plan Review process. While the preceding amendment regulates lots in residential districts, this amendment ensures that this issue is considered for all new development.

Vegetation Height for Corner Lots & in Yards along Streets - General Code Amendment

In amending §235-25.K & §235-25.L, vegetation was removed from these sections and inserted in the General Code shifting enforcement responsibility from the Building Commissioner to the Department of Public Works, which generally oversees vegetation maintenance throughout Melrose. Additionally, with the regulation removed from the zoning ordinance a hedge that exists today will not be deemed legally nonconforming. The general code allows enforcement of existing and new vegetation and discretion is provided to the Director of Public Works to determine if vegetation creates a safety hazard.

Unit Size

The MZO's restrictions on unit size as regulated in §235-25.I prevent the City from complying with the Department of Housing and Community Development's guidelines on the new multi-family zoning requirements for MBTA Communities. (See Section 3A of MGL c. 40A, that was part of the 2021 Economic Development Bill.) The regulations require that multi-family housing is suitable for families with children and that zoning cannot restrict the number of bedrooms, the size of bedrooms, or the number of occupants.

The proposed amendment strikes the minimum unit sizes from the zoning ordinance. Residential unit sizes are addressed in the State Sanitary Code, enforced by the Board of

Health, and the State Building Code, enforced by the Building Commissioner, which regulate minimum dwelling unit and bedroom sizes per occupant and other dimensional controls of residential units. In addition to the aforementioned codes, the City's zoning districts have different mechanisms that directly or indirectly control the size of residential units. Some districts regulate the number of units per lot based on lot area, and all control a building's size through Floor Area Ratio and/or height and setback regulations. Market demand is an additional control over unit size. Two recent developments downtown provide a few studio apartments/microunits of between 360 to 400 square feet in each; however, the market demand is generally for larger units.

By eliminating unit size from the MZO, the City will comply with MGL c. 40A s. 3A while still being able to regulate density using other provisions. In addition to needing to make this change to the Ordinance to comply with the new law, having a variety of housing types in terms of size and cost, is a goal of the City's Housing Production Plan and this change will allow for smaller units, which have been successful in a few recent developments.

Definition of Family & Dwelling Units

The amendment to the definitions of family and dwelling units is also needed to comply with DHCD's guidelines on the new Multi-family zoning requirements for MBTA Communities. It strikes the definition of family and replaces it with definitions for One-Family and Two-Family Dwelling Units. The MZO already defines Dwelling Unit and Multifamily Dwelling Units thereby organizing the code in a more logical and streamlined manner. The definition of dwelling unit establishes the primary intent of a residential unit being a space with complete living facilities (living, sleeping, eating, cooking and sanitation) occupied by people that share the use of that space together as a single housekeeping unit. Restricting occupancy based on biological or legal relationships does not address the purposes of zoning. A biological family can have the same, less, or more of an impact on zoning issues such as traffic, parking, overcrowding, public systems, etc., than a non-tradition family living together as a household. Regulating density through the current definition of family can be discriminatory and illegal in how it is enforced.

This amendment also seeks to strike the definition of Apartment House from the MZO and the Table of Use and Parking Regulations. The definition references family and the Multifamily Dwelling duplicates the apartment house use rendering it obsolete. Lastly, this amendment seeks to eliminate the references to apartment house and garden house from the definition of Multifamily Dwelling, which are repetitive and antiquated.

In accordance with M.G.L., Chapter 40A, Section 5, all proposed zoning amendments received by the City Council shall be submitted to the Planning Board within 14 days for review and to schedule a public hearing. The City Council and the Planning Board are required to hold public hearings within 65 days. The Planning Board would welcome a joint public hearing with the City Council. After the hearing, the Planning Board has 21 days to submit a report with recommendations to the City Council. The City Council

must wait until they receive a report from the Planning Board or wait for 21 days before holding a vote. Please forward the proposed amendments to us at your earliest convenience in order to begin the review process.

Thank you for your consideration. We look forward to discussing these important amendments with you.

Respectfully yours,

Gregory Sampson
Planning Board Chair

Attachment: Proposed Zoning Amendments dated January 31, 2023

cc: Shannon Phillips, City Solicitor
Rita Mercado, Chairwoman, Board of Appeals
Albert Talarico, Building Commissioner
Denise Gaffey, OPCD Director & City Planner
Members of the Planning Board

Corner Lot Setbacks Zoning Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION 235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

LOT, CORNER - A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines or, in case of a curved street, extended lot lines, being not more than 135°. ~~For purpose of this chapter, each street frontage shall be considered a front yard and the remaining two yards shall be considered rear yards.~~

LOT LINE, REAR—The lot line opposite from the front lot line except as provided for in §235-25.C.

Amend ARTICLE VI, Dimensional and Density Regulations, SECTION 235-25, Additional dimensional and density provisions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

~~C. A corner lot shall have minimum street yards with the depths which shall be the same as the required front yard depths for the adjoining lots.~~

For a corner lot the street frontage that is used to access the main entrance (typically identified by street address) of the structure from the street shall be considered a front yard. The other street frontage shall be considered a side yard.

Of the remaining two yards, the yard with the shallower depth shall be considered a side yard and the yard with the deeper depth shall be considered the rear yard. If the remaining yards have the same depth, the owner can designate the side and rear yards.

Structure Definition Zoning Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION 235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

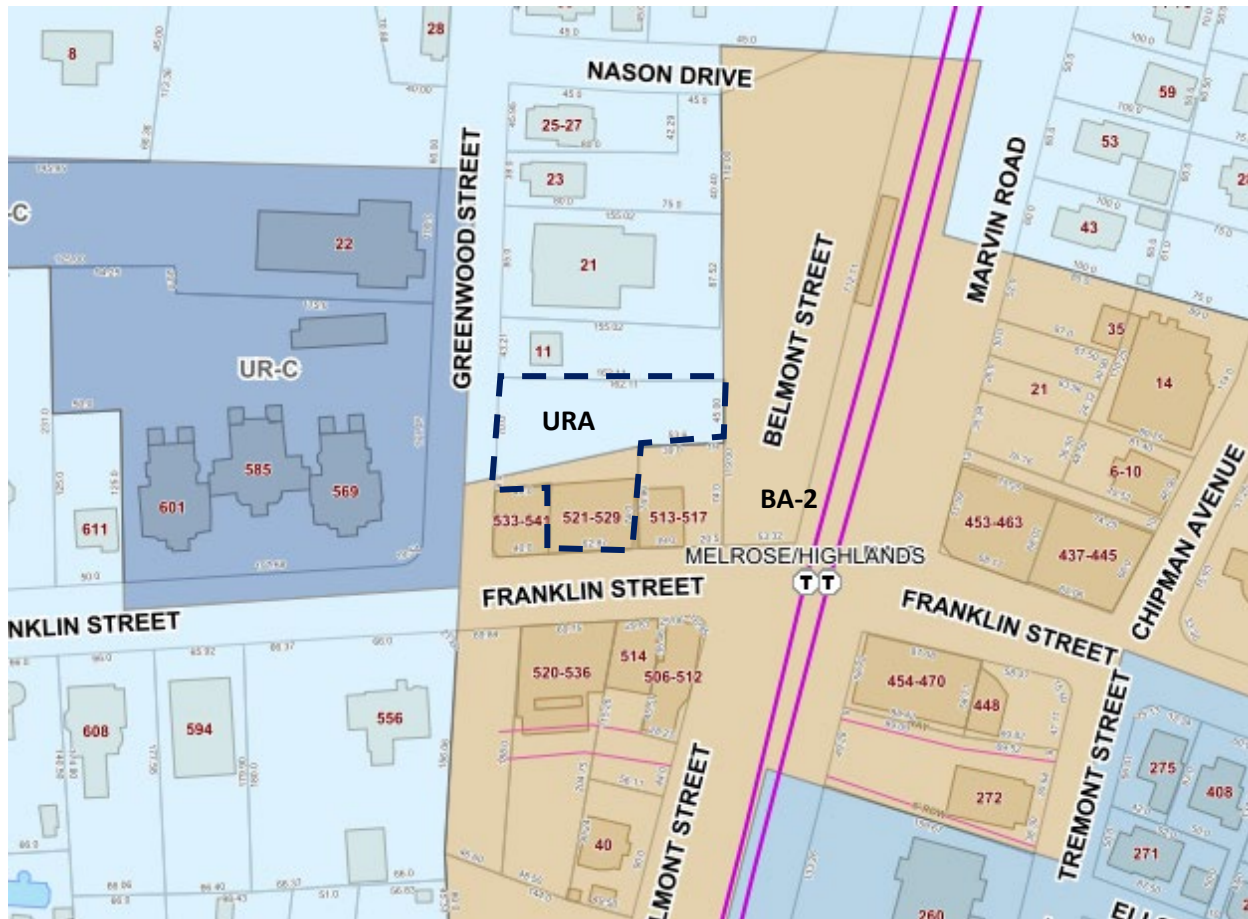
STRUCTURE - A combination of materials ~~for permanent or temporary occupancy or use~~ that are constructed or erected on the ground, such as but not limited to a building, bridge, trestle, tower, framework, ~~retaining wall~~, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool and equipment, shelters, piers, wharves, bin, ~~fence~~, and sign ~~or the like~~.

BA-2 Zoning District Line Change at 521-529 Franklin St.

Article III. Establishment of Districts

§235-8 Changes to map

The location and boundaries of the zoning districts are hereby amended as shown on a map titled “Zoning Map of the city of Melrose, Massachusetts,” dated __.



Proposed Zoning
Map Amendments
12.19.2022

- BA-1
- BA-2
- BB
- BB-1
- BC
- BD
- I
- I-A
- SR
- SR-A
- SR-B
- UR-A
- UR-B
- UR-C
- UR-D

UR-A to BA-2

Attachment: Final Package (ORDER-2023-59 : Zoning Amendments)

Definition of Retail Food Establishment

Amend Chapter 235, ARTICLE II Word Usage and Definitions, SECTION 235-5, Definitions as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

RETAIL FOOD ESTABLISHMENT- A retail store selling food products, not to be consumed on the premises, which shall include but not be limited to one or more of the following: fresh cheese, fresh meat or delicatessen products, freshly prepared baked goods or confections, natural and organic food or beverages, and which may also sell, incidental to the sale of food products therein, ~~wines and malt beverages~~, alcoholic beverages for off premises consumption; but not tobacco products, lottery tickets, pharmacy items, toiletries, personal care products or photographic supplies or services. The term "retail food establishment" as used herein shall further comport with the definition of "establishment" as defined in Chapter 327 of the Acts of 2008.

In-law Apartment Definition Zoning Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION §235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

IN-LAW APARTMENT

A dwelling unit either contained within an owner-occupied one-family ~~structure~~ dwelling (such as, but not limited to, a cellar or attic) or attached thereto (such as, but not limited to, a garage or barn) which constitutes separate living facilities for immediate members of the family, such as a mother and/or father or a son and/or daughter or their respective spouses. See "dwelling unit" as defined in this section.

A. An accessory in-law apartment is a separate, subordinate living area constructed as part of an existing owner-occupied one-family dwelling and built in a manner which maintains the appearance of a ~~single-family structure~~ one-family dwelling.

B. There shall be no boarders or lodgers within either unit of a dwelling with an accessory in-law apartment.

C. No accessory in-law apartment shall be constructed without a building permit issued by the Building Inspector.

D. No use as an accessory in-law apartment shall be permitted prior to a certificate of occupancy by the Building Inspector.

E. A certificate of occupancy shall be issued for three years. Continued occupancy shall require issuance of a new certificate of occupancy.

F. ~~The dwelling unit shall be located within the single family dwelling as it existed on January 1, 1990.~~

G. The dwelling unit shall occupy no more than 1/3 of the structure's gross floor area ~~as of January 1, 1990.~~

Votes for Special Permit Approval & Term

Amend Chapter 235, ARTICLE XI, Special Permits and Conditions, SECTION 235-62, Special Permit Procedure as follows.

Text that is removed is ~~crossed-out~~ and additions are underlined.

F. Vote. A concurring vote of all but one of the members of the Board of Appeals is required to grant a special permit or variance by said Board, and two-thirds concurring vote of the Planning Board is required to grant a special permit by said Board except when only a simple majority is required for multifamily housing, mixed-use development in centers of commercial activity within a municipality, and reduced parking space to residential unit ratio requirement, all pursuant to the specifications in Section 9 of the Zoning Act.

G. Certification and recording of special permit or variance. Any special permit or variance granted by a special permit granting authority shall be certified by said authority and show the name and address of the landowner or applicant if other than the owner. The notice of special permit shall identify the land affected, set forth compliance with statutory prerequisites and state that a special permit has been granted and certify that copies of the decision and all plans referred to in the decision have been filed with the City Clerk and the Planning Board. No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the City Clerk that 20 days have elapsed and no appeal has been filed or, if such appeal has been filed, that it has been dismissed or denied is recorded in the Registry of Deeds with the date and time of such recording and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. A special permit granted under this chapter shall lapse in ~~two~~ three years, which shall not include such time required to pursue or await the determination of an appeal, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

Site Lines and Fence Height in Front Yards on Corner and Non-Corner Lots

Amend ARTICLE VI, Dimensional and Density Regulations, SECTION §235-25.K and §235-25.L, Additional dimensional and density provisions, as follows.

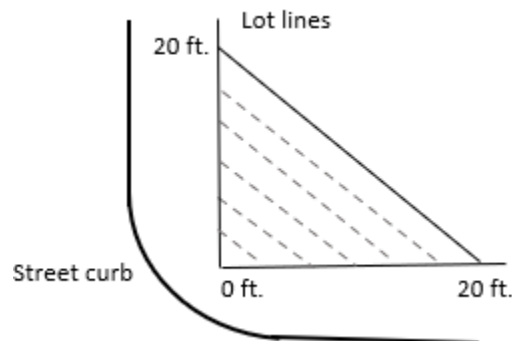
Text that is removed is ~~crossed out~~ and additions are underlined.

Section §235-25.K.

~~At no street intersection in any district shall any new or replacement organic material, excepting a lawn or ground cover, be planted or permitted to grow, nor any obstruction to vision exceeding the lesser of three feet in height above the plane established by the intersecting streets or 30 inches above the sidewalk be placed, nor shall existing organic material be permitted to grow above such height, on any lot within the triangular area formed by the intersecting curbs at a distance of 25 feet from the corner. Where curbs do not exist, measurement shall be made along edge of pavement.~~

K. For a corner lot in a district with a required front yard setback, a fence, wall, or other structure shall not exceed three feet in height above the plane of the intersecting streets herein (also see §202-4.1):

- a) Within the triangular area formed by measuring 20 ft. from the intersection of the property lot lines and bounded by a straight line connecting the two points.
- b) Notwithstanding §235-25.K(a), if a fence, wall, or similar structure is setback three feet from the lot line in the side yard as designated in §235-25.C they are exempt from the height restrictions in this section; and
- c) Otherwise, §235-25.L applies.



Section §235-25.L

~~A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot, provided that in the front yard area no such structure or vegetation shall be over three feet in height above the adjacent ground within five feet of the front lot line unless it can be shown that such vegetation will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street.~~

L. For a non-corner lot, a fence, wall, or similar structure within the required front yard setback or from the front lot line to the line of the existing primary structure, whichever is less, shall not exceed three feet in height (also see §202-4.1(B)). Height is measured from the grade of land where the structure is installed. Existing retaining walls may be replaced in kind.

Site Plan Review Amendment

Amend ARTICLE V, Use Regulations, SECTION §235-16.1.E(5), Site plan review, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

E.5 Convenience and safety of vehicular and pedestrian movement within and around the site and ~~of~~ the location of buildings, fences, walls, or other structures, and driveway openings, in relation to traffic and/or adjacent streets.

Vegetation Height for Corner Lots & in Yards along Streets - General Code Amendment

Insert ARTICLE I, General Provisions, SECTION §202-4.1 Vegetation Height, as follows.

Text that is removed is ~~crossed-out~~ and additions are underlined.

§202-4.1 Vegetation Height

A. For a corner lot, a hedge shall not exceed three feet in height above the plane of the intersecting streets, and/or any other leafy vegetation shall be maintained so as not to obstruct vision herein:

- i. Within the triangular area formed by measuring 20 ft. from the intersection of the property lot lines and bounded by a straight line connecting the two points.
- ii. Outside of the triangular area, §202-4.1(B) applies.

B. For all lots, a hedge shall not exceed three feet in height within three feet of the property line in the yard adjacent to the street and any other leafy vegetation shall be maintained so as not to obstruct vision of the public way. Height is measured from the grade of land where the vegetation is installed.

C. For existing vegetation, the determination regarding if vegetation is obstructing vision at an intersection or of the public way shall be at the discretion of the Director of Public Works.

Unit Size Amendment

Amend ARTICLE VI, Dimensional and Density Regulations, SECTION §235-25.I, Additional dimensional and density provisions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

Section §235-25.I

~~The gross floor area of each one family detached dwelling and per dwelling unit in a two family dwelling shall not be less than 768 square feet. The gross floor area in a multifamily dwelling shall not be less than 450 square feet for one bedroom dwelling units, 600 square feet for two bedroom units and 768 square feet for three bedroom or larger units.~~

Definitions of Family & Dwelling Amendment

Amend ARTICLE II, Word Usage and Definitions, SECTION §235-5, definitions, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

Section §235-5

APARTMENT HOUSE

~~A building designed or intended or used as the home or residence of three or more families, each in a separate dwelling unit, living independently of each other, and who may have a common right in halls and stairways.~~

FAMILY

~~An individual or two or more persons related by blood or marriage living together as a single housekeeping unit and including necessary domestic help, such as nurses or servants, and further including, provided that the dwelling is owner-occupied, not more than three lodgers or roomers taken for hire. A group of individuals (including necessary domestic help, such as nurses or servants, but excluding lodgers or roomers taken for hire) not related by blood or marriage but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of four individuals shall constitute a single family.~~

DWELLING, ONE-FAMILY

A building containing one dwelling unit.

DWELLING, TWO-FAMILY

A building containing two dwelling units.

DWELLING, MULTIFAMILY

~~A building containing three or more dwelling units and including an apartment house, garden apartment house and multifamily dwellings~~

Amend Table of Use and Parking Regulations, SECTION 235 attachment 1, as follows.

Text that is removed is ~~crossed out~~ and additions are underlined.

Table of Use and Parking Regulations

Principal Use	Residential Districts						Business Districts					Industrial Districts		Parking Code (see 235-32)
	SR	SR-A	SR-B	UR-A	UR-B	URC UR-D	BA BA-1	BA-2	BB BB-1	BC	BD	I	I-A	
5. Apartment house	—	—	—	—	S	P	—	—	—	—	P	—	—	B