

**MELROSE PLANNING BOARD
ZONING SUBCOMMITTEE
MEETING MINUTES**

Tuesday, May 17, 2022

7:30 PM

Cassidy Conference Room, City Hall, 562 Main Street

PRESENT: Anne DeSouza-Ward, Gregory Sampson, Beth Delahaij, & Brian Gregory
ABSENT: None
STAFF PRESENT: Denise Gaffey, Director, Lori Massa, Senior Planner & Maya Noviski, Assistant Planner

The meeting was called to order at 7:38 PM by Ms. DeSouza Ward.

Ms. DeSouza Ward began the meeting by noting that the items the Subcommittee would be reviewing are related to frequently requested and approved variances, which if the code were amended, would reduce the number of Board of Appeals cases.

The first amendment Planning Staff presented was for Section §235-5 of the Melrose Zoning Ordinance (MZO), Definition of a Corner Lot and Section §235-25.C of the MZO, Additional Dimensional and Density Provisions. Based on several past Board of Appeals cases, Staff recommended removing the provision that regulates corner lots as having two front yards and two rear yards. Ms. Massa presented several different options for a rewrite. Subcommittee members preferred amending this section so corner lots would have one front yard, one rear yard, and two side yards with the street frontage used to access the main entrance of the structure from the street considered the front yard. Of the remaining yards, the yard with the shallower depth would be considered a side yard and the yard with the deeper depth will be considered the rear yard. Ms. Delahaij mentioned two corner lot properties with front doors at the corner of the houses for staff to review to see how this amendment would relate to them. With these amended designations, common setback violations on corner lots will be relieved for many properties, although the lots with strange shapes may still require a variance, which may be warranted due to their unique shape.

Subcommittee Members moved on to review revisions to the In-Law Apartment definition as listed under Section §235-5 of the MZO. The Subcommittee discussed the applicability and desirability of retaining letter F in the definition and agreed that removing it would alleviate unnecessary hardship. Members also agreed that altering letter G by eliminating reference to January 1, 1990 would be useful. Members suggested relocating the In-Law Zoning Code from the definition to another section the code in the future for clarity.

Members continued by reviewing the definition of a Structure under Section §235-5 of the MZO. Ms. Massa explained that an abutter during one Board of Appeals' case identified that fences and retaining walls are included in the definition of a "structure" and therefore need to follow the regulations governing accessory structure setbacks. Staff recommended removing fence and retaining wall from the definition since it is typical for those structures to be on or close to a property line and it was likely not the intent of the regulation for the setbacks to apply to them. Subcommittee Members agreed and suggested removing "or the like" from the definition, as well.

The next item Members reviewed was a request for a zoning district change from the property owner at 521-529 Franklin St. The front of the parcel where the building is located facing Franklin Street is in the Transit Oriented Mixed Use (BA-2) District, while the parking lot to the rear is in Urban Residential-A District (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. Members had questions about how this situation arose and it was noted that at the time of purchase the portion in BA-2 was one parcel and the rear was a separate parcel, but they have since been combined for the Assessor's tax records. Members agreed that the lot line should be shifted so the entire property is in the BA-2 district.

Members continued by reviewing revisions to Sections §235-25.K & L., Additional dimensional and density provisions which regulate setbacks of obstructions for corner lots, and fence, hedge and wall heights in front yards. Planning Staff explained that they have received calls from confused residents attempting to understand this section of the code and a request from City Councilor McMaster to amend the language for more clarity. Ms. Massa proceeded to explain Planning Staff's recommendations for revision including simplifying the language around measuring structure heights and site lines for corner and non-corner lots.

Mr. Sampson noted that this section of the code is difficult to enforce. Ms. Delahaij suggested publicizing this rule to focus on public education rather than enforcement because many residents may not know about this regulation. Ms. DeSouza Ward added that many people may inherit certain landscapes when purchasing a home but if they relandscape their property, they need to know to follow the code. Mr. Sampson also recommended adding language regulating vegetation that is an obstruction to vision such as the Beech tree with heavy foliage located on the corner of Sargent St. and West Highland Ave.

Ms. Massa presented several different pictures of fence height and front yard examples from around the City. She explained that the revised code is an attempt to prioritize safety while enhancing the streetscape. Subcommittee Members discussed the diagram included in the revised section depicting the reference to structure height in the triangular area on a corner lot. Members suggested editing the diagram for clarity and adding other diagrams to show different corner angles. Members liked the revised language around structure setbacks in the designated side yard for corner lots.

Ms. Massa continued by presenting information on ways the City could revise regulations around Nonconforming Structures and Uses. She explained that the goals of this amendment are to:

- Replace unclear language
- Apply the provision that is in the state law more broadly to allow for alterations to structures by Special Permit based on a finding of detriment versus a variance
- Allow some alteration to nonconforming structures and structures on nonconforming lots by-right

Ms. Massa noted that the MZO should be updated so that the nonconforming section is in compliance with Massachusetts General Law (MGL) Chapter 40a. Section 6. She displayed a number of different places the code could be amended with examples of how changes would have affected past Board of Appeals' cases. She explained that Staff identified two ways to amend this section either by revising

the current language, which would still leave the code open to interpretation, or rewriting the entire section for more breadth and clarity.

Mr. Sampson suggested requiring a Special Permit with the only finding being a Section 6 finding for nonconforming alterations. The Subcommittee thought that the by-right allowances included in the draft made sense. Members discussed eliminating use variances from the code and asked staff to provide a list of the use variance applications from the past several years to understand how often they are requested. The amendment would retain a project's ability to change uses within the same category as defined in the Table of Uses in the MZO by special permit. Members also discussed how the proposed language defines an alteration of a nonconforming use. Members suggested removing language in the Special Permit finding of detriment for nonconforming uses that lists neighborhood character as a finding. Subcommittee Members agreed that this section would benefit from a complete rewrite as opposed to amending the current code.

Documents: Zoning Amendment List 2022
 Corner Lot Zoning Amendment Presentation
 Corner Lot Definition Amendment
 In-Law Definition Amendment
 Structure Definition Amendment
 Additional Dimensional and Density Provisions Sections §235-25.K & L.
 Amendment
 Fence Height Presentation
 Zoning District Change Amendment
 Nonconforming Zoning Amendment Presentation

The meeting adjourned at 9:18 PM