



Jennifer Christy

From: Sergio Modigliani <smodig@rcn.com>
Sent: Tuesday, April 2, 2024 6:03 PM
To: Weisman Hugh; Christy Jennifer
Cc: Osnoss Richard
Subject: Re: Our Call Today
Attachments: GRADE PLANE EXPAMPLES-ALTERNATE 2.pdf; GRADE PLANE EXPAMPLES ALTERNATE 1.pdf; att12072.htm; att04667.htm; GRADE PLANE EXPAMPLES-.pdf; Big House GH AccApt Bylaw amend definitions 2-12-24.pdf; att08305.htm; att07383.htm; att32144.htm; Strte definition.pdf

Hi, Hugh:

In response to the PB posted Agenda which referenced some documents, Jen kindly sent me this Draft of your work (attached) to be discussed on April 9. Thanks for your efforts on trying to make matters clearer to applicants and enforcement.

An important aspect of the Large House By-Law we had discussed concerned the treatment of spaces that would be considered Not Above Grade - i.e. what we will call a basement. I assume your POV is that if you define what the Above Grade Level is (as, for example, the the 5' you proposed), then any spaces below, finished or not, are considered not to count in the Total Living Area.

And, as we discussed. we agreed that the Maximum Height control was important in not allowing any pressing upward of a lower level to cause excess bulkiness because the total height is still capped (13', 18', 24' or other as provided by the By-law for different conditions).

So, my comments on your Draft for your review:

1. A note that the current **2.7 Maximum Height definition** measures the distance from "...the mean of the natural grade level on the perimeter..."

This aspect of using the natural grade is reinforced by 3 of the thirteen ZBA criteria for relief over 3500SF, specifically Sections 6.11(F)2, 3, 4:

2. the project protects the natural features of the site and retains the natural landscape of the site after completion of construction;
3. the project avoids altering the natural landscape, minimizes the size of lawns and recreational facilities, uses native species for landscaping, and retains natural vegetation on slopes;
4. the project minimizes grading alterations and executes grading and excavation so that the contours of the land are the same following construction as those previously existing on the site and adjacent to it;

You proposed:

Grade Level - Section 2.27: A reference plane representing the average of the finished ground level adjoining the building at all exterior walls.

It strikes me that your proposed definition at 2.27 for Grade Level should state:

- A. "...representing the **mean**..." instead of "...the average..."; and
- B. "of the **natural** ground level" instead of "**finished** ground level"

In addition to seeking consistency, I also believe using "finished ground level" may encourage (dramatic?) manipulations of the natural grades in order to create Not Above Grade status for lower levels.

2. And, therefore, a modest clarification may be useful in your proposed

Story Above Grade Level - Section 2.28: Any story having its finished floor surface entirely above grade level (see 2.27?) or in which the finished surface of the floor level next above is more than five feet above grade level.

3. It looks like your new Definitions need re-numbering, as the current (2023) edition uses up through 2.28 Tennis Court already.

4. The Alternatives you present involving various percentages personally strike me as overly-complicating the calculations and opening new areas of potential re-interpretation and dispute. The calculations are already complex around multiple buildings, and more so under the procedures of seeking a Special Permit to exceed 3500 SF. I suggest keeping with a number of feet (e.g., 3', 4', 5'). And, as discussed, making such a percentage-based change now risks creation of new class of Pre-Existing Non-Conforming structures, and potential arguments concerning the Assessor's Records applying non-uniform criteria?

Hope this may be helpful to you the PB,

Regards,

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