



# ORDINANCE COMMITTEE

## COMMITTEE MEETING

~ MINUTES ~

Tuesday, October 15, 2024

3:00 PM

Sullivan Chamber  
795 Massachusetts Avenue  
Cambridge, MA 02139

The Ordinance Committee will hold a public hearing on Tuesday, October 15, 2024 at 3:00p.m., on a Zoning Petition by the City of Cambridge Board of Zoning Appeal to amend the Cambridge Zoning Ordinance in Articles 2.000 and 8.000 with the intent to add a definition of “dormer” to Article 2.000 and to amend the requirements related to adding dormers to nonconforming one- and two-family dwellings in Section 8.22.1.h.2 in order to allow certain dormer(s) construction as-of-right.

Attendee Name	Present	Absent	Late	Arrived
Burhan Azeem	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Marc C. McGovern	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Patricia Nolan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sumbul Siddiqui	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Jivan Sobrinho-Wheeler	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Paul F. Toner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Ayesha M. Wilson	<input type="checkbox"/> Remote	<input type="checkbox"/>	<input type="checkbox"/>	
Catherine Zusy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
E. Denise Simmons	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

A public meeting of the Cambridge City Council’s Ordinance Committee was held on Tuesday, October 15, 2024. The meeting was Called to Order at 3:00 p.m. by the Co- Chair, Vice Mayor McGovern. Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, the City is authorized to use remote participation. This public meeting was remote, allowing participation via Zoom.

**At the request of the Co-Chair, Deputy City Clerk Crane called the roll.**

- Councillor Azeem – Present/Remote
- Vice Mayor McGovern – Present/In Sullivan Chamber
- Councillor Nolan – Present/In Sullivan Chamber
- Councillor Siddiqui – Present/In Sullivan Chamber
- Councillor Sobrinho-Wheeler – Present/Remote
- Councillor Toner – Absent
- Councillor Wilson – Present/Remote
- Councillor Zusy – Present/In Sullivan Chamber
- Mayor Simmons – Absent

**Present – 7, Absent – 2. Quorum established.**

Co-Chair McGovern offered opening remarks and noted that the Call of the meeting was to hold a public hearing on a Zoning Petition by the City of Cambridge Board of Zoning Appeal (BZA) to amend the Cambridge Zoning Ordinance in Articles 2.000 and 8.000 with the intent to add a definition of “dormer” to Article 2.000 and to amend the requirements related to adding dormers to nonconforming one- and two-family dwellings in Section 8.22.1.h.2 in order to allow certain dormer(s) construction as-of-right. Present at the meeting was Jeff Roberts, Director of Zoning and Planning, Teal Delys, Zoning Project Planner, and Megan Bayer, City Solicitor. Co-Chair McGovern shared that there was miscommunication with the Petitioners and that they were

unable to attend today's meeting and after an update from Jeff Roberts and Public Comment, the hearing will go into recess to continue the discussion at a future date for the Petitioners to participate and present.

Co-Chair McGovern recognized Jeff Roberts who offered an update on the discussion from the Planning Board meeting that was held on October 8, 2024. In addition to providing an update, Jeff Roberts shared in advance of the meeting a memo from the Community Development Department to the Planning Board regarding the zoning petition. Jeff Roberts indicated that the Planning Board was supportive of the proposed changes.

**Co-Chair McGovern opened Public Comment.**

Parviz Parvizi, 35 Webster Avenue, Cambridge, MA, shared they were in favor of the changes that enable dormers and shared concerns regarding Section 8.221.h.

John Hawkinson spoke in favor of the BZA initiating zoning amendments.

Patrick Barrett shared he had questions regarding the proposed petition and was in favor of the BZA bringing a petition forward.

Co-Chair McGovern recognized Councillor Nolan who provided comments that were in support of the BZA coming forward with a petition and shared she would be in favor of moving forward. In addition, Councillor Nolan offered suggestions on the City and the BZA working together on the proposed language changes.

Co-Chair McGovern recognized Councillor Azeem who shared his support for the petition and agreed that some of the proposed language could be amended as this goes forward.

Co-Chair McGovern recognized Councillor Zusy who shared her support for the intention of the petition which would help simplify the approval process for applicants. Councillor Zusy asked if there was any discussion with the Historical Commission or Inspectional Services (ISD) while working on this petition. Jeff Roberts responded by noting that he could not speak for the petitioners but shared the collaboration that was made with CDD and the BZA during the process. Jeff Roberts shared that CDD did help facilitate conversations with the BZA, Historical Commission, and ISD. Jeff Roberts also help explain the jurisdiction that the Historical Commission has regarding dormers.

Co-Chair McGovern noted how this petition would make it easier for applicants and the BZA and it would be important for the petitioners to be present to help answer some questions and shared how the Committee can continue to move forward.

Co-Chair McGovern recognized Councillor Nolan who offered a suggestion on how the Committee could move forward with staff to help clarify some of the language. Megan Bayer was available to provide clarification on how the Committee can move forward.

**Co-Chair McGovern recognized Councillor Nolan who made a motion that the City Manager be and hereby is requested to direct the Law Department and the Community Development Department to work with the Board of Zoning Appeal to clean up language and come back to the Ordinance Committee with clarifications and amendments to requirements related to adding dormers and nonconforming one and two family dwellings.**

**Deputy City Clerk Crane called the roll.**

Councillor Azeem – Yes

Vice Mayor McGovern – Yes

Councillor Nolan – Yes

Councillor Siddiqui – Yes

Councillor Sobrinho-Wheeler – Yes

Councillor Toner – Absent

Councillor Wilson – Yes

Councillor Zusy – Yes

Mayor Simmons – Absent

**Yes – 7, No – 0, Absent – 2. Motion passed.**

**ORDERED: That the City Manager be and hereby is requested to direct the Law Department and the Community Development Department to work with the Board of Zoning Appeal to clean up language and come back to the Ordinance Committee with clarifications and amendments to requirements related to adding dormers and nonconforming one and two family dwellings.**

Co-Chair McGovern recognized Councillor Zusy who asked if Sarah Burks from the Historical Commission had any comments to add regarding the petition. Sarah Burks shared that Jeff Roberts did a good job summarizing the Historical Commissions procedures and that they are not directly impacted by the proposed amendments.

**Co-Chair McGovern made a motion to recess the meeting.**

**Deputy City Clerk Crane called the roll.**

Councillor Azeem – Yes

Vice Mayor McGovern – Yes

Councillor Nolan – Yes

Councillor Siddiqui – Yes

Councillor Sobrinho-Wheeler – Yes

Councillor Toner – Absent

Councillor Wilson – Yes

Councillor Zusy – Yes

Mayor Simmons – Absent

**Yes – 7, No – 0, Absent – 2. Motion passed.**

**The Ordinance Committee went into recess at 3:38p.m.**

**On Tuesday, October 29, 2024, the Cambridge City Council’s Ordinance Committee that recessed on October 15, 2024, reconvened at 12:00p.m. by the Co-Chair, Vice Mayor McGovern.** Pursuant to Chapter 2 of the Acts of 2023 adopted by Massachusetts General Court and approved by the Governor, the City is authorized to use remote participation. This public meeting was hybrid, allowing participation in person, in the Sullivan Chamber, 2<sup>nd</sup> Floor, City Hall, 795 Massachusetts Avenue, Cambridge, MA and remote participation via Zoom.

**At the request of the Co-Chair, City Clerk LeBlanc called the roll.**

Councillor Azeem – Present/Remote

Vice Mayor McGovern – Present/In Sullivan Chamber

Councillor Nolan – Present/In Sullivan Chamber

Councillor Siddiqui – Present/In Sullivan Chamber

Councillor Sobrinho-Wheeler – Present/Remote

Councillor Toner – Present/In Sullivan Chamber

Councillor Wilson – Present/In Sullivan Chamber

Councillor Zusy – Absent

Mayor Simmons – Absent\*

**Present – 7, Absent – 2. Quorum established.**

\*Mayor Simmons was marked present in the Sullivan Chamber at 12:32p.m.

Co-Chair McGovern offered opening remarks and noted that the Call of the meeting was to continue the discussion from the October 15, 2024 hearing on a Zoning Petition by the City of Cambridge Board of Zoning Appeal to amend the Cambridge Zoning Ordinance in Articles 2.000 and 8.000 with the intent to add a definition of “dormer” to Article 2.000 and to amend the requirements related to adding dormers to nonconforming one- and two-family dwellings in Section 8.22.1.h.2 in order to allow certain dormer(s) construction as-of-right. Present at the meeting were the City Solicitor, Megan Bayer, Director of Zoning and Development, Jeff Roberts, Assistant Commissioner for Inspectional Services, Jacob Lazzara, and Zoning Project Manager, Teal Delys. Also present in the Chamber was Petitioner, Jim Monteverde, and Bill Boehm, via Zoom.

Co-Chair McGovern recognized Jim Monteverde who gave a presentation relative to the proposed zoning petition on dormers. The presentation was provided in advance of the meeting and included in the Agenda Packet.

**Co-Chair McGovern opened Public Comment.**

Parviz Parvizi, 35 Webster Avenue, Cambridge, MA, offered comments that were in favor of the proposed petition and shared friendly amendments to the language.

Co-Chair McGovern recognized Councillor Nolan and Co-Chair Toner who both shared their support for the proposed petition and had clarifying questions pertaining to some of the language. Councillor Nolan and

Councillor Toner both asked for clarity on the appropriate limit length of dormers. In addition, Councillor Nolan asked if there was a response from the City from Policy Order 2024 #141 and window minimum coverage of less than 50%. Co-Chair McGovern noted that there was no response from the City at this time. Jim Monteverde shared that much of this proposed language came from the dormer guidelines and provided feedback as to why they believe this language is appropriate. Jacob Lazzara provided additional comments that supported the proposed language in the petition.

Co-Chair McGovern recognized Councillor Sobrinho-Wheeler who asked how the potential change in dormers would affect the multifamily housing zoning proposals that are currently in Committee for discussion. Jeff Roberts responded by explaining how the dormers provision is part of a specialized set of rules and the multifamily zoning is more about changing the underline base zoning. In addition, Jeff Roberts shared how multifamily, and dormers would affect each other if both proposed zoning changes were to pass.

Co-Chair McGovern recognized Bill Boehm who provided additional comments related to the questions raised on the length of the dormer relative to the roof.

Co-Chair McGovern had clarifying questions on raised roofs versus additions and if 15 feet would be big enough to provide the space people are looking to build. Jim Monteverde responded and referred to some of the slides that were shown during his presentation. He noted that other languages have been introduced in the event that additional space is needed when building. Co-Chair McGovern asked for clarification on eliminating H.1 and concerns that have been raised by the public. Jim Monteverde and Jeff Roberts both responded and provided an explanation regarding the proposed changes to H.1 and why it can be confusing. Jim Monteverde pointed out that the language that has been proposed does not say how many stories, but use non-conforming one- or two-story dwellings, which they believe covered in one category, highlighting that the intent was to address dormers only, in the petition. Co-Chair McGovern recognized Megan Bayer and asked for the Law Departments interpretation on what this language would allow legally. Megan Bayer was able to provide feedback on the proposed language and shared that she would like further conversations with the Community Development Department and Inspectional Services as this petition moves forward. Megan Bayer provided additional context relating to zoning ordinances and provided information on the Zoning Act in Chapter 40A Section 6.

Co-Chair McGovern reviewed the different options on how the Committee could move forward with the petition.

Co-Chair McGovern recognized Councillor Wilson who asked the Community Development Department when they would be able to provide the requested language. Jeff Roberts shared that they would be able to have the language ready before the petition expired. Councillor Wilson shared her support for the proposed language and moving forward.

Co-Chair McGovern recognized Co-Chair Toner who shared he agreed with the petition moving forward to the full City Council and supports making it easier for people who are looking to remodel their house.

Co-Chair McGovern recognized Councillor Nolan who shared support for the petition moving forward and questioned the appropriate length of dormers. Councillor Nolan provided suggestions that were aligned with the state building code.

Co-Chair McGovern recognized Megan Bayer who asked for additional information on the amendments the Committee was asking for. Co-Chair McGovern and the members of the Committee provided a clarification. Councillor Nolan shared that her concerns and questions raised during discussion were on second and third story dormers/additions, appropriate limit on length of dormers, and window minimum coverage of less than 50%.

Co-Chair McGovern recognized Councillor Azeem who shared his support for the petition moving forward.

**Co-Chair McGovern recognized Co-Chair Toner who made a motion to forward the Board of Zoning Appeal's amendments to the Cambridge Zoning Ordinance to add a definition of dormer to Article 2.000**

**and to amend the requirements related to adding dormers to non-conforming one and two family dwellings in Section 8.22.1.h.2, to the full City Council with a favorable recommendation and that it be passed to a second reading.**

**City Clerk LeBlanc called the roll.**

Councillor Azeem – Yes

Vice Mayor McGovern – Yes

Councillor Nolan – Yes

Councillor Siddiqui – Yes

Councillor Sobrinho-Wheeler – yes

Councillor Toner – Yes

Councillor Wilson – Yes

Councillor Zusy – Absent

Mayor Simmons – Yes

**Yes – 8, No – 0, Absent – 1. Motion passed.**

**Co-Chair McGovern recognized Councillor Wilson who made a motion to adjourn the meeting.**

**City Clerk LeBlanc called the roll.**

Councillor Azeem – Yes

Vice Mayor McGovern – Yes

Councillor Nolan – Yes

Councillor Siddiqui – Yes

Councillor Sobrinho-Wheeler – yes

Councillor Toner – Yes

Councillor Wilson – Yes

Councillor Zusy – Absent

Mayor Simmons – Yes

**Yes – 8, No – 0, Absent – 1. Motion passed.**

**The meeting was adjourned at approximately 1:11p.m.**

**Attachment A** – Communications from the public.

**Clerk’s Note:** The City of Cambridge/22 City View records every City Council meeting and every City Council Committee meeting. This is a permanent record. The video for this meeting can be viewed at:

**October 15, 2024**

[https://cambridgema.granicus.com/player/clip/865?view\\_id=1&redirect=true](https://cambridgema.granicus.com/player/clip/865?view_id=1&redirect=true)

**October 29, 2024**

[https://cambridgema.granicus.com/player/clip/878?view\\_id=1&redirect=true](https://cambridgema.granicus.com/player/clip/878?view_id=1&redirect=true)

To: Cambridge City Council Ordinance Committee  
From: Parviz Parvizi  
Date: October 25, 2024  
Re: Dormer Petition

Thank you to the BZA and CDD for working to reduce friction for home renovations that use dormers. I am in favor of the proposed changes that enable dormers to be installed by right in non-conforming buildings and provide clear guidance as to the definition of a dormer. The 3.5 foot setback, 50% length maximum ("the greater of 15 feet or 50%" would be better), and 50% window requirement seem arbitrarily restrictive and overly prescriptive to me personally, but reasonable minds can differ on those and no line-drawing exercise is going to be perfect.

Two aspects of the current proposal, however, should be modified before moving forward:

1. The proposal eliminates Section 8.22.1.h.1, which allows non-conforming second story additions and dormers of any length by right. Eliminating 8.22.1.h.1 is unambiguously more restrictive for homeowners and creates more expensive trips to the BZA that leave everyone worse off with no obvious commensurate benefit. **City Council may wish to adopt a version of the proposed dormer amendment that focuses on its stated purpose of modifying 8.22.1.h.2 while retaining 8.22.1.h.1 allowing non-conforming second story additions and dormers of any dimension by right.**
2. The proposal rightly seeks to account for FAR changes that occur when dormers or additions are added. It seeks to address the catch-22 problem when a dormer or addition is allowable under 8.22.1.h and its floor area triggers an FAR violation. But, the current wording seems only to exempt extensions of existing FAR non-conformities. A more typical fact pattern is that a home is at or under FAR limits, but the dormer or addition takes it over the threshold. **City Council may wish to clean up the wording of the proposal so that it is clear that all areas created by modifications under 8.22.1.h are exempt from the definition of GFA and therefore cannot trigger FAR violations for either FAR-conforming or FAR-non-conforming homes.**

Since at least 1977, the Zoning Ordinance has enshrined different standards for the second story versus third story. In what was previously 8.22.d, the 1977 Ordinance allowed dormers and additions of any length and height on the second story, while restricting third story dormers to a 15 foot maximum length and no greater than the existing ridge line. The differing treatment of second story versus third story was not a mistake or an oversight, but an express choice that City Council maintained across multiple revisions of the Zoning Ordinance across 47 years:

(d) The Superintendent of Buildings may issue a building permit for the construction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000 in the following cases:

- (1) A dormer or addition to the second story which does not extend beyond the existing first story of the structure.
- (2) A dormer on the third story no longer than 15 feet which does not extend beyond the existing second story nor above the existing ridge line.

The current Zoning Ordinance updates wording, but retains the same second story versus third story distinction in 8.22.1.h, which is the successor to 8.22.d:

h. Construction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000, but no other requirements of Article 5.000 including FAR, in the following cases:

1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure.
2. A dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit authorized by this Subparagraph h 2, does not exceed fifteen (15) feet.

The type of two-story home that would use a second story addition is typically small. This is exactly the type of home that is attainable for first-time and lower-income buyers who want to put sweat equity into updating their property. The proposal in front of Council would require that all dormers be set back by 3.5 feet from the ends of the roof, which would render them impractical for small two-story buildings. I personally was able to use the exemption in 8.22.1.h.1 for a second story addition and would encourage City Council to retain that right.

It may be reasonable to incorporate a height definition for additions in 8.22.1.h.1. Currently, 8.22.1.h.1 places no height restrictions on second story additions, but ISD uses its interpretative discretion in a restrictive fashion to limit second story additions to the roof ridge. That interpretation is unsupported by the text of the Ordinance, makes it impractical for owners of older lower-height homes to build modest second story additions, and appears to run counter to the expressed intentions of City Council. If City Council wanted to restrict the height of second story additions to the roof ridge, it could have used the same wording from 8.22.1.h.2 in 8.22.1.h.1, but it has declined to do so across numerous Zoning Ordinance revisions for 47 years. It's not obvious why City Council should now start restricting second story additions.

**A pragmatic height definition under 8.22.1.h.1 to guide both homeowners and ISD might be: anything up to the roof ridge or that allows for up to 10 foot clear internal height on each story of the home.** That would address potential ISD concerns about unintended extreme height extensions, while allowing most practical applications of second story additions that bring internal heights for the entire home to modern living standards.

**Below is a modified version of the dormer amendment for your consideration that addresses the above concerns with changes indicated in blue font.** These proposed updates would be fully within the scope of the proposed petition because they maintain the content of 8.22.1.h.1 of the Zoning Ordinance as it already is while pursuing the stated purpose of the petition to define dormers in 8.22.1.h.2 and updating wording to address FAR with greater precision.

#### 1. ARTICLE 2.000 DEFINITIONS

Add the following definition: Dormer- A roofed projection built out from a sloping roof, containing a window or windows.

#### 5.25.2 Gross Floor Area shall not include:

(o) Areas created by modifications conforming to Section 8.22.1.h

8.22.1.h. Construction of ~~a dormer or dormers~~ or additions to a nonconforming one- or two-family dwelling which may further violate the yard or height and/or FAR requirements of Article 5.000, in the following cases: ~~but no other requirements of Article 5.000 including FAR, in the following cases:~~ shall comply with the following conditions:

1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure and with a height that does not extend above the existing roof ridge, other than to allow for first and second stories with a maximum of 10 feet of clear internal height each.
2. A dormer on the third story that shall comply with the following conditions:
  - i. ~~A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure. The primary face of dormer(s) shall not extend beyond the face of the wall below.~~
  - ii. ~~A dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit by this Subparagraph h-2, does not exceed fifteen (15) feet. The length of any dormer shall not exceed 1/2 of the length of the roof upon which it is built.~~
  - iii. Sides of dormer(s) shall not extend to within 3'-6" of the existing roof termination.



- iv. Windows within dormers shall cover a minimum of 50% of the primary dormer wall.
- v. The top of the dormer shall not extend above the existing roof ridge.

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Two aspects of the current proposal, however, should be modified before moving forward:

1. The proposal eliminates Section 8.22.1.h.1, which allows non-conforming second story additions and dormers of any length by right. Eliminating 8.22.1.h.1 is unambiguously more restrictive for homeowners and creates more expensive trips to the BZA that leave everyone worse off with no obvious commensurate benefit. **City Council may wish to adopt a version of the proposed dormer amendment that focuses on its stated purpose of modifying 8.22.1.h.2 while retaining 8.22.1.h.1 allowing non-conforming second story additions and dormers of any dimension by right.**
2. The proposal rightly seeks to account for FAR changes that occur when dormers or additions are added. It seeks to address the catch-22 problem when a dormer or addition is allowable under 8.22.1.h and its floor area triggers an FAR violation. But, the current wording seems only to exempt extensions of existing FAR non-conformities. A more typical fact pattern is that a home is at or under FAR limits, but the dormer or addition takes it over the threshold. **City Council may wish to clean up the wording of the proposal so that it is clear that all areas created by modifications under 8.22.1.h are exempt from the definition of GFA and therefore cannot trigger FAR violations for either FAR-conforming or FAR-non-conforming homes.**

Since at least 1977, the Zoning Ordinance has enshrined different standards for the second story versus third story. In what was previously 8.22.d, the 1977 Ordinance allowed dormers and additions of any length and height on the second story, while restricting third story dormers to a 15 foot maximum length and no greater than the existing ridge line. The differing treatment of second story versus third story was not a mistake or an oversight, but an express choice that City Council maintained across multiple revisions of the Zoning Ordinance across 47 years:

(d) The Superintendent of Buildings may issue a building permit for the construction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000 in the following cases:

- (1) A dormer or addition to the second story which does not extend beyond the existing first story of the structure.
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The current Zoning Ordinance updates wording, but retains the same second story versus third story distinction in 8.22.1.h, which is the successor to 8.22.d:

h. Construction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000, but no other requirements of Article 5.000 including FAR, in the following cases:

1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure.
2. A dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit authorized by this Subparagraph h 2, does not exceed fifteen (15) feet.

The type of two-story home that would use a second story addition is typically small. This is exactly the type of home that is attainable for first-time and lower-income buyers who want to put sweat equity into updating their property. The proposal in front of Council would require that all dormers be set back by 3.5 feet from the ends of the roof, which would render them impractical for small two-story buildings. I personally was able to use the exemption in 8.22.1.h.1 for a second story addition and would encourage City Council to retain that right.

It may be reasonable to incorporate a height definition for additions in 8.22.1.h.1. Currently, 8.22.1.h.1 places no height restrictions on second story additions, but ISD uses its interpretative discretion in a restrictive fashion to limit second story additions to the roof ridge. That interpretation is unsupported by the text of the Ordinance, makes it impractical for owners of older lower-height homes to build modest second story additions, and appears to run counter to the expressed intentions of City Council. If City Council wanted to restrict the height of second story additions to the roof ridge, it could have used the same wording from 8.22.1.h.2 in 8.22.1.h.1, but it has declined to do so across numerous Zoning Ordinance revisions for 47 years. It's not obvious why City Council should now start restricting second story additions.

**A pragmatic height definition under 8.22.1.h.1 to guide both homeowners and ISD might be: anything up to the roof ridge or that allows for up to 10 foot clear internal height on each story of the home.** That would address potential ISD concerns about unintended extreme height extensions, while allowing most practical applications of second story additions that bring internal heights for the entire home to modern living standards.

**Below is a modified version of the dormer amendment for your consideration that addresses the above concerns with changes indicated in blue font.** These proposed updates would be fully within the scope of the proposed petition because they maintain the content of 8.22.1.h.1 of the Zoning Ordinance as it already is while pursuing the stated purpose of the petition to define dormers in 8.22.1.h.2 and updating wording to address FAR with greater precision.

1. ARTICLE 2.000 DEFINITIONS

Add the following definition: Dormer- A roofed projection built out from a sloping roof, containing a window or windows.

5.25.2 Gross Floor Area shall not include:

(o) Areas created by modifications conforming to Section 8.22.1.h

8.22.1.h. Construction of ~~a dormer or dormers~~ or additions to a nonconforming one- or two-family dwelling which may further violate the yard or height and/or FAR requirements of Article 5.000, in the following cases: ~~but no other requirements of Article 5.000 including FAR, in the following cases:~~ shall comply with the following conditions:

1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure and with a height that does not extend above the existing roof ridge, other than to allow for first and second stories with a maximum of 10 feet of clear internal height each.
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  - ii. A dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit by this Subparagraph h 2, does not exceed fifteen (15) feet. The length of any dormer shall not exceed 1/2 of the length of the roof upon which it is built.
  - iii. Sides of dormer(s) shall not extend to within 3'-6" of the existing roof termination.

- iv. Windows within dormers shall cover a minimum of 50% of the primary dormer wall.
- v. The top of the dormer shall not extend above the existing roof ridge.

**APPENDIX**

**Additional Zoning Ordinance Clean-Up Suggestions for Consideration**

If City Council determines that general Zoning Ordinance clean-up items are within scope of the existing petition and do not require a new petition, it may wish to consider the following updates that provide homeowners with clarity and reduce wasteful 5-6 month journeys to the BZA.

**1. Exempt skylights from setback requirements.** Currently, a homeowner seeking skylights on their roof must seek BZA approval if their building is within yard setback requirements. In the same vein as the dormer exemption, it would save wasteful trips to the BZA to exempt skylights, which are a less expensive and less intrusive way to make use of upper floor space and also provide for a green source of ventilation. In my casual observation, I have not seen a single BZA case over the past few years where a special permit for skylights was denied. Suggested updates to 8.22.1:

d. Relocation, enlargement, or addition of windows, doors, ~~skylights~~, or similar openings to the exterior of a building provided that the facade of the building upon which such relocation, enlargement, or addition is occurring (1) conforms to the yard requirements of Article 5.000, or (2) faces a street.

[i. Relocation, enlargement, or addition of skylights on any roof.](#)

j. Any construction, alteration, reconstruction, extension or enlargement otherwise permitted in paragraphs (a) through (i) above where the lot is also nonconforming due to the presence of more than one structure containing a principal residential use as prohibited in Section 5.53; or any conforming construction where only the requirements of 5.53 are nonconforming.

**2. Enable better use of areas below grade (and ensure better consistency across the Ordinance) by exempting window wells, areaways, and their safety features from height calculation and yard.** Many homeowners seek to use areas below grade for living space. They add window wells or stair access areaways to comply with safety codes and to make the spaces more livable. Under the existing zoning ordinance, adding a window well or areaway below grade increases the “height” of the building. This is because the lowest exposed point becomes the bottom of the window well and lowers the “average grade” that is used to calculate the height to the top of the building. Beyond potentially triggering building height limits, this increase in “height” also increases setback requirements, which are calculated based on a formula using building height and length. So, a homeowner who is not making the top of their building any higher ends up needing to embark on a costly BZA journey to obtain relief because their building “height” increases due to changes they want to make below grade. Simple updates to the zoning ordinance could remove this wasteful use of the BZA process:

5.23 Height Exceptions. The provisions of this Ordinance governing the height of buildings and structures in all districts shall generally not apply to the following:

...

[\(h\) Window wells and stair areaways providing access to areas below grade, which shall be excluded from the definition of mean grade for purposes of calculating building height.](#)

5.24.1 Every part of a required yard shall be open to the sky and unobstructed, except that the following features may be located within a required yard:

...

[\(i\) Safety railings and covers for window wells and stair areaways providing access to areas below grade.](#)

It's worth noting that 5.24.1.h was added to the zoning ordinance exempting window wells from yard setback requirements. Updating the height definition and exempting accompanying safety features from setbacks would be congruent with the intent of 5.24.1.h. Otherwise, the zoning ordinance currently operates under a catch-22 where window wells are exempted from yard setback requirements, but trigger a height change that can make the building as a whole non-conforming.

### **3. Place renovations of existing buildings on at least equal footing with new construction.**

Sections 5.24.1.f and 5.24.1.h provide common sense exemptions to yard setback requirements. But, if an existing building is already non-conforming with respect to its yard setbacks, it is not able to utilize the exemptions in 5.24.1.f and 5.24.1.h. For example, a new construction home that sits directly on its setback line could have a porch projecting 12 feet into its setback. But, an existing non-conforming home that is 1 foot over its setback line could not have a porch projecting 11 feet into its setback. In both cases, the porch would be projecting into the setback to the same extent, but the owner of an existing home would need to embark on an expensive BZA journey whereas the developer building a new home could build the porch by right. That seems like a strange outcome. Simple updates that place owners of existing homes on at least equal footing with builders of new homes would remove a wasteful use of the BZA process:

5.24.1 Every part of a required yard shall be open to the sky and unobstructed, except that the following features may be located within a required yard:

...

[\(j\) Section \(f\) shall apply to existing non-conforming buildings insofar as the projections do not project more than three and one-half \(3½\) feet beyond the location of the required setback. Section \(h\) shall apply to existing non-conforming buildings insofar as the features do not project more than twelve \(12'\) feet beyond the location of the required setback.](#)