

Zoning Issues in the PBNA Area

The zoning committee of the Pilot Block Neighborhood Association (PBNA) has prepared this document to help residents understand the PBNA role in zoning and also to report what we have observed has been the outcome of some typical zoning issues.

Background

The City of Boston Zoning Regulations is the cornerstone of the city's Building Code which is relied upon to regulate building construction and building use. Thus, proposed changes to the outside of a building or how a building is used require that a plan/description of the proposed change be evaluated by the Building Department. If a proposed change conforms to the existing regulations the petitioner is allowed to proceed subject only to the oversight of the Building Department to ensure conformity. If a proposed change does not conform to the building code, the petitioner can appeal to the Zoning Board of Appeals (ZBA) for a zoning variance or special permit.

In the South End, zoning regulations are particularly important because of the closeness and density of our neighborhood. The zoning regulations pertinent to the South End underwent an extensive evaluation and were updated in the late 90's. The process to update these regulations included numerous committees from the entire South End and multiple public hearings. The PBNA was part of this process.¹

The PBNA zoning committee attends all ZBA hearings pertinent to properties and issues in, or abutting, the PBNA area. Insofar as the ZBA only deals with exceptions to the building regulations, it is useful to know about its past rulings as they are likely to be a good predictor of how similar issues will be ruled. Following are observations regarding the ruling outcomes of ZBA hearings on selected issues that may be of interest to residents of the PBNA area.

Decks

By way of background, city building regulations only allow a deck to be built subject to a special permit granted by the ZBA. Thus, all proposals to construct a deck require a ZBA hearing. Several years ago the ZBA started granting special permits for decks to be built on any floor in the rear of a building. The criteria for each deck is that it can extend to the width of the building, must have see thru railings, and have a maximum depth of 6 feet with a cantilevered support system. The PBNA zoning committee supports the ZBA criteria for decks. The issues addressed by the ZBA guidelines are how light and shadows effect abutters and/or lower level units in the same building and the privacy of abutters. A 6 foot depth gives usable outdoor space with minimal intrusion to your neighbors.

¹ Boston Zoning Code pertinent to the South End Neighborhood District is in Article 64 of the Code. See: <http://www.cityofboston.gov/bra/pdf/ZoningCode/Article64.pdf>

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Head Houses

Head houses are no longer allowed in the zoning regulations for the South End. To the best of our knowledge none have been approved in the South End for the past 20+ years. The PBNA zoning committee would oppose any proposal to construct a head house in or abutting the PBNA area.

Alterations and Additions

Any change to the outside of a building which can be seen from a public street at street level is subject to Boston Landmarks Commission (BLC) standards and criteria. Thus, any changes to the front of a building (e.g., changes or major repairs to a building's windows, gutters, slate, mansard, stoop or paint) are subject to BLC jurisdiction. Similarly, any changes to the side or back of a building (e.g., windows or paint), or to the roof (e.g., a roof deck and its railings) that can be seen from a public street at street level are also under BLC jurisdiction.²

The ZBA allows additions which add a maximum of 50 square feet to the rear of the building. The PBNA zoning committee supports this position.

Grandfathering

Decks or additions which predate current zoning regulations are considered preexisting, nonconforming uses and are allowed to remain and be maintained.

Building Use Changes

Most proposed changes in the use of a building require a ZBA hearing. Examples of such a 'use' change include reclassifying the status of a residential building (e.g., from multiple to single family status or from three to two family or visa versa); or changes in how a commercial building is used (e.g., replacing a real estate office with a restaurant). Whenever a change of use appears to be controversial the PBNA holds a general meeting to discuss and decide what the PBNA position will be. A vote is taken and the results of that vote are reported to the ZBA.³

² The BLC standards and criteria for the South End Landmark District are contained in: http://www.cityofboston.gov/environment/pdfs/complete_se.pdf

³ One recent example of a use change involving a commercial building was when Upper Crust Pizza moved into the neighborhood at 683 Tremont Street. Prior to Upper Crust occupying the space it was occupied by the Kosmos Market and part of Kosmos' operation was a take out food business. Upper Crust wanted to operate as a take-out and eat-in food business. If Upper Crust Pizza did not want to have eat-in business there would have been no need to seek approval from the ZBA and the PBNA would not have taken a position. Insofar as Upper Crust did want to operate an eat-in business the PBNA met to discuss and vote on the change. The results of the vote were reported to the ZBA.