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DOB PROFESSIONAL TECHNICAL FORUM

Coordinated jointly by the New York Society of Architects and the NYC Department of Buildings

Forum # 1

Date: 7/30/2003

Location: Manhattan Office of DOB, 280 B'way, 3rd Fl. Conference Room

DOB speakers: Mr. Ron Livian, P.E. – Deputy Commissioner of Technical Affairs

Ms. Fatma Amer, P.E. – Executive Engineer

Forum attendees: (see attached sign-in sheet)

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The forum commenced at 5:15 PM.

Ms. Amer introduced the concept of the forum. The goal is to provide answers to frequently asked questions regarding technical matters. This forum specifically will not include procedural matters which are being addressed through other programs. Both the questions and answers discussed in these forums will be distributed to both DOB personnel and the industry in an attempt to provide clarification on issues of general interest.

Ms. Amer announced that the DOB is going to re-publish the current 1968 ("New Code") with all amendments up through 6/30/03 fully incorporated. The paper version is targeted to be available before the end of the year and the Internet version will be updated sometime prior to that. The DOB anticipates that the Internet version would then be kept current by incorporating all amendments, after 6/30/03, shortly after adoption.

Mr. Livian announced that the DOB would be continuing their lunchtime workshops on procedural issues. Ms. Deborah Taylor elaborated that the DOB was concluding their workshops on the Professional Certification Process with one last session being held in each of the Staten Island, Manhattan and the Bronx borough offices. In late August the DOB will begin a series of workshops on easements and declarations.

Mr. Livian and Ms. Amer then addressed the following questions:

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Q1) ZR Sect. 23-62(d): The formula prescribed for permitted obstructions above the max. height limit or into sky exposure plane under ZR sect. 23-62(d) unfairly penalizes small lots. The requirement was workable prior to contextual zoning, but now prevents properties with frontages less than 75 –80 ft. from achieving the maximum height they are otherwise permitted. The City Planning Commission is aware of this unintentional effect, but how should Architects address this matter until the Zoning Resolution is amended?

A1) The DOB must work within the Zoning Resolution as adopted. Eventually the law will be revised and the professional community should follow-up with the City Planning Commission to keep this item on their short-term agenda. In the meantime, the DOB Executive Staff will work with applicants on a case by case basis. In this way the DOB will assist applicants in understanding how they may modify their designs to comply with the present zoning regulations and grant hardship reconsiderations where appropriate.

Q2) Z.R. Sect. 12-10: Under Z.R. Sect. 12-10, how is the portion of a zoning lot that is subject to “corner lot” regulations determined? Is it by circumscribing a 100’ radius around the intersection point of two street lines or by offsetting lines 100’ and parallel to each street line?

A2) The portion of a “zoning lot” subject to the regulations for ‘corner lots’ is that portion bounded by the intersecting street lines and lines parallel to and 100 feet from each intersecting street line. The use of a radius is not correct.

Q3) New Code Sect. 27-1021 (a) (3) & (4): Specifically, when is a construction fence under code sect. 27-1021 (a) (3) & (4) and a guardrail under code sect. 27-1032 (b) required? Is a permit necessary when a fence is not required but is desired by a contractor, owner or applicant for additional site safety?

A3) The issue of when a construction fence is appropriate is not easily codified. The code sections cited identify specific situations when these safety measures are required, but there are many other situations that are not addressed in the code. Currently there is legislation being considered to identify and prescribe safety measures for some of the more commonly encountered situations, but no legislation on this matter can be all encompassing. We are aware that questions have been raised regarding some violations issued by the BEST Squad on this issue. Mr. Livian advised that his office will discuss the matter with AEU and DOB’s legal Counsel. Currently, the DOB Legal Section is in the process of submitting a response to the ECB in support of the published Ron Livian’s memorandum and letter written by Deputy commissioner Bob LiMandri regarding this subject. In the meantime, if a violation has been issued in error, the Borough Commissioner’s can provide relief to the respondent. In regard to permits, in order to ensure the safety of fence installations, it is presently DOB policy that all fences, including voluntary fences, are required to comply with all applicable code sections and a permit must be obtained prior to their installation. The only exception is fences less than six foot high at one and two family dwellings as provided for in chapter 44 of the NYC Rules & Regs.

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Q4) New Code Sect. 27-180(g): Are a riser diagram and hydraulic calculations required for a filing involving the relocation of less than 20 sprinkler heads due to changes in the partition layout of a space?

A4) So long as additional heads are not being added, the filing need only show the existing and proposed locations of the heads. This way the examiner can confirm that the “system” is not being effectively changed. A note, that the work involves relocation only and the head count has not changed, would also be appropriate. If a small number of heads are being added, the applicant need show the existing condition and why the system can accommodate the additional heads. This may, only need involve identifying the present piping sizes of the local branch lines. Obviously significant changes to the fire suppression system would require the presentation of revised hydraulic calculations and a riser diagram.

Q5) Z.R. Sect. 25-20: In applying the requirements for off street parking to projects that include both the residential conversion of an existing building and the enlargement of that building, is it appropriate to arrive at a final total of required spaces by, applying the requirements to the existing building portions to be converted separately from the proposed enlargements of the building and then adding the two results?

A5) Yes

Q6) Old Code Sect. 26-444.0(a) & MDL sect. 62: In performing work on buildings built prior to 1929, with 24” high existing parapets flat roofs and no guardrails, when is it required to provide either 42” high guard rails or increase the height of the parapets?

A6) Ms. Amer advised that she believes there was a Local Law on this issue from just prior to the adoption of the 1968 (New) Code. She will research the matter and report back at our next meeting. So long as the work remains within the bounds of “Ordinary Repairs and Maintenance” no new requirements are imposed. However, what is required when a full reconstruction of the parapet is under taken needs to be researched further.

Update: Local law 40 of 1960 amended the Building Code and required the parapets to be constructed to a height of 42”. Therefore, when a parapet on an existing building is to be repaired, no need to increase the height of the parapet. However, if a reconstruction of the parapet or portion thereof is proposed, compliance with the 42” is required for the reconstructed portion.

Q7) Z.R. Sect. 44-583 & 42-442: For properties that extend across a residential zoning district line, what is the datum point for complying with the limitations and restrictions imposed by Z.R. sect. 44-583 & 42-442 on the location of loading berths, business entrances, show windows etc.?

A7) The locations of business entrances, loading berths etc., under the cited sections are measured from the intersection of the street line and the nearest side lot line of the adjacent zoning lot, located in the residential zoning district.

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- Q8) Z.R. 23-861:** Is there any reduction permitted for small lots, of the 30' required under Z.R. 23-861 between legally required windows and the rear lot line, similar to that permitted for rear yards under Z.R. sect. 23-52?
- A8)** No, however operable skylights in the roof of a building, meeting the requirements of code sect. 27-746, may be substituted for the required windows. In addition, convenience openings facing a rear yard that is less than 30' may be provided as per Table 3-4, but can not be credited for light or ventilation.
- Q9) Old Code Sect. 26-216 thru 26-220 & New Code Sect. 27-307 thru 27-313:** Under what conditions, if any, are commercial kitchen exhaust ducts permitted to be attached to the street face of a building, when such attachment would project beyond the street line? Can they be considered as architectural detail, under Code sect C27-313 (a)(2), if they do not project more than 10" over the street line?
- A9)** There are no sections that permit a kitchen exhaust to project into the street line and travel up the street facade of a building to the roof. However a fan termination of a commercial kitchen exhaust, which complies with RS 13, chapter II, paragraph 2-3.4.3 may project into the street line. In general that would require a distance above the sidewalk and from any residential window of greater than 10 ft. In regard to the second half of the question, it may be possible on a small building, to design the duct in such a way that it could be considered an architectural detail under the section cited.
- Q10) R.S. 13, Chap. II, paragraph 2-3.4.3:** Can a through-wall a/c unit, flush with the exterior wall, have a grill above or below a non-protected window opening on to a fire escape in an old code residential building?
- A10)** Only if a fire damper is provided, since any new opening onto the fire escape would need to be protected. However, the a/c unit may be placed in the upper portion of the existing window opening, provided: 1) It does not reduce the window size and open area to less than that required for light and ventilation; 2) Does not project into the fire escape; and 3) Allows the window to open sufficiently for egress.
- Q11) New Code Sect. 27-123.1 (LL 58-87):** In which situations, if any, regarding renovation of existing dwellings, are waivers of all or some of the requirements of the code sections on "Adaptable Dwelling" units, within the DOB's authority to issue, without the applicant filing with the Mayor's Office for Persons with Disabilities?
- A11)** None, if the proposed work is not specifically excluded from the "Adaptable Dwelling" requirements, then the DOB will issue an objection. The applicant must then file with the Mayor's Office for Persons with Disabilities [MOPD] and seek a recommendation of waiver.

The DOB must then review and accept the recommendation of the MOPD. As guidance, Ms. Amer offered the following:

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- 1) The LL 58/87 sections of the code are only applicable to existing dwellings that are on an interior accessible route and when the work involves changes to the piping in the walls and/or floors, other than “Ordinary repair and Maintenance”.
- 2) If a single fixture is being relocated as part of a bathroom renovation, only that fixture needs to comply with the required clearances, provided such work will not require any structural changes or additional partitions.
- 3) The widening of a bathroom door or the enlargement of the bathroom to comply with the code specified clearances is not required if such work was not within the originally proposed scope of the application.
- 4) The mere replacement of fixtures or even the replacement of a tub with a shower on the existing rough piping, does not trigger the application of the “Adaptable Dwelling” sections.
- 5) The LL 58/87 sections of the code do not require the installation of an elevator, during the renovation of an entire small building, if that building is not otherwise required to have an elevator and an elevator was not within the original proposed scope of work.

The meeting concluded with a discussion that the minutes of these forums would be reviewed by the Executive Staff of the DOB, and distributed. Applicants may use the answers provided herein as support in their submissions to the DOB’s plan examiners.

Due to the positive feedback from those in attendance, it was decided that three additional forums would be scheduled for the last Wednesday of August, Sept. and October.

The forum was adjourned at 6:29 PM.