

**SOUTH HADLEY PLANNING BOARD VIRTUAL MEETING
MEETING MINUTES OF JUNE 12, 2023**

Present: Diane Mulvaney, Chair; Nate Therien, Vice-Chair; Joanna Brown, Clerk; Brad Hutchison, Member; Michael Adelman; Associate Member; Anne Capra, Director of Planning and Conservation; Colleen Canning, Planning/Conservation Coordinator

Chair Mulvaney called the meeting to order at 6:30 PM and reviewed the virtual meeting protocols.

Agenda Item #1 --- Open Comment Period

Anne Stockton, Amherst Road, addressed the Board. She asked how long it would take the State Attorney General's Office to review the recently adopted bylaws at Town Meeting. Director Capra stated that the review typically took three to six months.

Agenda Item #2 --- Minutes

Draft minutes of the April 24 regular meeting and public hearing were sent to the Board for review. Revised drafts were sent prior to the meeting to correct spelling and grammar errors.

Motion: Member Therien moved to approve the April 24 regular meeting and public hearing minutes as revised. Member Hutchison seconded the motion. Four (4) out of four (4) members present voted in favor of the motion through roll call.

Agenda Item #3 --- Correspondence

The list of correspondence was sent to the Board prior to the meeting. Within the correspondence, there were two items from Member Hutchison of which one related to local building height regulations. If not addressed during the normal course of discussion, Member Hutchison could address the report under *Agenda Item #7 --- Other New Business*.

Agenda Item #4 --- Discussion on the Accessory Dwelling Unit (ADU) Bylaw adopted at May 2023 Town Meeting

South Hadley Building Commissioner, David Cote, was present at the meeting.

The Board decided to place discussion of the Accessory Dwelling Unit (ADU) Bylaw on the agenda as questions from the public had been raised regarding how ADUs, particularly detached ADUs, would be permitted and what 'accessory' features would be allowable. As the Building Commissioner was the ultimate arbiter of the Zoning Bylaw and would ultimately issue building permits for ADUs, he was asked to join the meeting to answer questions on the matter.

Questions had been received regarding the feasibility of installing a separate driveway for an ADU as well as how the allowable size of an ADU would be calculated. Damien Cote explained that a second driveway would only be allowable if certain criteria were met such as the location

of the ADU was not accessible from the existing driveway. Detached ADUs were also subject to Planning Board review so the site would be subject to Planning Board approval. Allowable detached ADU size under the zoning bylaw was calculated by floor area which was different from building code calculations for a dwelling. Accessory structures such as garages, decks, and gazebos were incredibly difficult to define when considering the ambiguity of user access.

Clerk Brown asked how 'living space' would be quantified. Damien Cote replied that the ADU bylaw only calculated 'floor area' when defining the allowable size.

Martha Terry, 25 Brainard Street, asked if a detached ADU could have a garage. Damien Cote responded that under the bylaw a garage could be built with an ADU assuming that all dimensional requirements were satisfied. Martha Terry followed by stating that a member of the Planning Board claimed that a detached ADU could not have a garage. She was concerned that the opinion may have swayed the vote at Town Meeting and requested that Town Counsel advise on the matter. Damien Cote clarified that a detached ADU would be accessory to a primary dwelling as only one primary structure could be allowed per site. Therefore, any accessory structure on such a site would be accessory to the primary dwelling. If a garage were built on a site with an ADU, it would mean that the garage was accessory to the primary dwelling. However, it was not feasible to assign access to the garage under zoning to only residents of the ADU or only residents of the primary dwelling.

Members discussed the comments by Martha Terry regarding her request for Town Counsel opinion on supposed discussion of a Planning Board member at Town Meeting. Vice-Chair Therien found that Town Meeting members were well informed about the topic of ADUs and believed that those who voted were aware of the arguments for and against adoption of the bylaw. Clerk Brown thought Martha Terry's concerns were valid if there was an attempt to share inaccurate information but she did not think that the concern could be resolved during the meeting. Associate Member Adelman stated the concern was based on a hearsay comment and that course of conversation tonight regarding detached ADUs and the allowance for garages was hypothetical. He added that the bylaw could be amended if it needed to be. Member Hutchison stated that the purpose of the agenda item was satisfied as clarification was offered on the ADU bylaw. Director Capra recommended that Martha Terry draft a letter stating her concern and the Board could consider what additional action needed to be taken. She added that residents could always contact the Selectboard or Town Administrator with any concern or request.

Agenda Item #5 --- Discussion on Updates to the Open Comment Period Policy

Recent action had been taken by the State's Supreme Court regarding a public board's ability to limit inappropriate behavior during open comment periods. The court determined that, absent of language relating to illegal activity or harm, a public Board could not limit one's ability to speak during the Open Comment Period for rude behavior. In light of this action, the Selectboard amended their Open Comment policy. The Planning Board could consider similar action.

Vice-Chair Therien questioned what would happen if someone used the Open Comment Period to address an item undergoing public hearings. Similarly, the Board's current policy restricts

discussion to items that are *not* already on the agenda. Could the Board continue to restrict these comments from the Open Comment Period?

Members discussed the policy and considered seeking Town Counsel's opinion on the matter.

Motion: Vice-Chair Therien moved to seek clarification from Town Counsel regarding the applicability of limiting speaking to items not already on the posted agenda relative to recent State Supreme Court action. Member Brown seconded the motion. Four (4) out of four (4) voting members voted in favor of the motion through roll call.

Agenda Item #6 --- Planning & Conservation Department Report on Planning Projects and Development Updates

Director Capra detailed the following items:

- *Housing Production Plan* – The second community forum to discuss the Housing Production Plan update would be held on June 22. Director Capra reviewed the timeline for community review, planning board review, and ultimate adoption of the plan.

Associate Member Adelman noted that his term as Associate Member would expire at the end of June so he would no longer be able to function as Planning Board representative to the Housing Production Plan Advisory Committee. As Member Hutchison had indicated interest in taking over the role, Chair Mulavney called for a roll call vote to appoint member Hutchison to the position. Four (4) out of four (4) members present voted in favor of the appointment through roll call vote.

- *Future Meeting Schedule* - The Board could anticipate reviewing a Special Permit/Illuminated Sign Request to upgrade signage at the 'Gulf' gas station on 72 Lamb Street. The Board could also anticipate beginning review of updates to the Subdivision Regulations.

Agenda Item #7 --- Other New Business

Vice-Chair Therien questioned if the Planning Board needed to appoint a member to the Human Rights Commission. Director Capra would follow up with the Town Administrator.

Member Hutchison elaborated on his correspondence to the Board as reflected in the discussion under *Agenda Item #3 --- Correspondence*. He explained that South Hadley classifies building height as the highest point of a building. However, this viewpoint could discourage the types of roofing seen as 'traditionally New England' such as gabled roofing because the height was calculated by the highest point. Other local Towns, such as Amherst, calculated height differently to account for different massing as a gabled roof and a flat roof with the same highest point do not translate as having equal impact from the ground. Member Hutchison had also reviewed the design standards for building setbacks within the Smart Growth Districts and saw how the requirements could create expensive or impractical building design.

Clerk Brown addressed interest in discussing the feasibility of hosting meetings in-person or through hybrid means. Clerk Brown was also interested in investigating means to communicate planning-related issues to the public such as periodic newsletters.

Member Hutchison, who was also the Town’s representative to the Pioneer Valley Planning Commission (PVPC), addressed the second correspondence he sent to the Board. He shared a slideshow presentation regarding economic challenges facing the State.

Chair Mulavney shared that the Board needed to consider appointment of a Planning Board representative to the Capital Planning Committee as the current representative’s term was set to expire.

Agenda Item #8 --- Adjournment

Motion: Clerk Brown moved to adjourn the meeting. Member Hutchison seconded the motion. Four (4) out of four (4) members present voted in favor of the motion through roll call.

The meeting adjourned at 8:23 PM.

Respectfully Submitted,
Colleen Canning, Planning/Conservation Coordinator

Appendix

Document	Document Location
Member Hutchison Building Height Observations (June 9, 2023)	Attached
MA Economic Growth and Challenges slideshow presentation given by Mark Melnik with Umass Donahue Institute (June 8, 2023)	Planning Files
Selectboard Open Comment Policy Memo (March 21, 2023)	Planning Files

HAZARDOUS MATERIAL

Material including, but not limited to, any material, in whatever form, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. The term shall not include oil.

HAZARDOUS WASTE

A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the regulations of the Massachusetts Hazardous Waste Management Act, MGL c. 21C.

HEIGHT

The vertical distance between the highest point of the roof of a building and the average finished grade of land on which the building is located. For purposes of this bylaw, the term "height" shall not apply to chimneys, steeples, flag or radiopoles, antennas, aerators, required bulkheads, elevator penthouses, or other equipment appurtenances necessitated by the permitted use to which a building is put. In addition, the term "height" shall not apply to solar energy collectors and equipment used for the mounting or operation of such collectors; provided, however, that such collectors or equipment shall not impair solar access of other building or other solar installations.

HEMP

Hemp as defined in Chapter 94G, Massachusetts General Laws.
[Added 1-10-2018 STM by Art. 5]

HOME OCCUPATION

An occupation, trade, or profession, including a not-for-profit organization, which results in a product or service for compensation which is: (1) customarily carried on in a dwelling unit; (2) pursued by a person residing in the dwelling unit; and (3) incidental and secondary to the use of the dwelling unit for residential purposes. Such home occupations may include but are not limited to the following: office or studio of a building contractor, physician or surgeon, dentist, artist, lawyer, handicraft person, architect, professional engineer, realtor or real estate broker, insurance agent or broker, psychologist or counselor, notary public, teacher of scholastic subjects, accountant, hairdresser, beauty parlor operator, or teacher of piano. There are multiple categories or types of home occupations, which are shown on the Use Table included as an attachment to this chapter and described and regulated by § 255-22.

HOSPITAL

An institution where only sick and disabled persons are given medical, surgical or convalescent care.

HOST COMMUNITY

Host community, in regards to recreational marijuana, as defined in Chapter 94G, Massachusetts General Laws.
[Added 1-10-2018 STM by Art. 5]

HOTEL

An establishment providing lodging on a short-term basis, usually less than one week; dining rooms, function rooms and other support services may be included. Access to the individual sleeping rooms is usually through a lobby and interior corridors.

HOUSE TRAILER

A portable structure used for temporary living or sleeping purposes and which is equipped with wheels or similar devices used for the purpose of transporting said structure from place to place.

IMPERVIOUS SURFACES

Materials or structures on or above ground that do not allow precipitation to infiltrate the underlying soil.

INDEPENDENT TESTING LABORATORY

Independent testing laboratory, in regards to recreational marijuana, as defined in Chapter 94G, Massachusetts General Laws.
[Added 1-10-2018 STM by Art. 5]

INDUSTRIAL

Any use classified under the category "Industrial Uses" in the Use Table included as an attachment to this chapter.

INSTITUTIONAL BUILDING

A building not used either as a principal accessory use to a commercial, industrial or residential use; generally used for a municipal, educational or religious purpose.
[Added 5-9-2018 ATM by Art. 17]

JUNK

Articles such as old iron, brass, copper, tin, lead or other base metals, plastic, cordage, old bags, rags, wastepaper, paper clippings, scraps, clips, rubber, glass, empty bottles, empty cans and all other articles discarded and no longer used as a manufactured article, composed of one or more of the materials mentioned but which may be converted into some other product by means of some manufacturing process.

LABORATORY AGENT

Laboratory agent, in regards to recreational marijuana, as defined in Chapter 94G, Massachusetts General Laws.
[Added 1-10-2018 STM by Art. 5]

6.15 Maximum Building Coverage

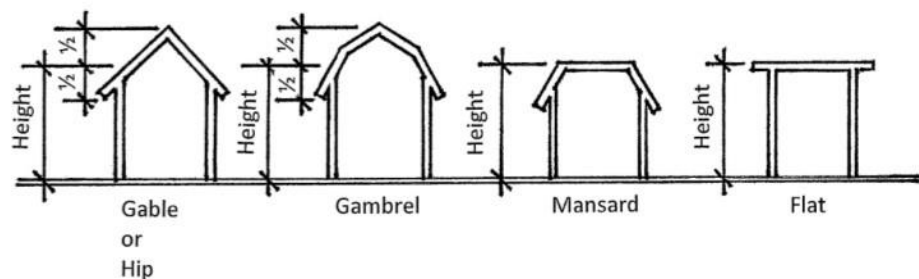
- 6.150 Maximum building coverage shall be computed as the percentage of the total lot area which may be covered by all principal and accessory buildings and structures. For the purposes of the subsection, a portion of a lot shall be considered as being covered by a structure if it is enclosed on at least three sides by a wall or other substantially sight-impervious fence more than six feet high (whether or not having a roof), or if it has any part of any structure above it in a vertical line.
- 6.151 In the case of a Cluster Development as defined in Section 4.3, building coverage shall be calculated as the percentage of the total area of the development which may be covered by all principal and accessory buildings and structures.

6.16 Maximum Lot Coverage

- 6.160 Maximum lot coverage shall include the percentage of a lot covered in the manner described in Section 6.17, Maximum Building Coverage, plus that portion of a lot covered by driveways, parking areas, walkways, tennis courts, swimming pools or other similar surfaces.
- 6.161 For the purposes of this Bylaw, all such surfaces, whether constructed of impermeable materials (i.e., concrete, bituminous asphalt, oil and stone and the like) or constructed of permeable materials (i.e., gravel, peastone and the like) shall be included in the calculation of maximum lot coverage.
- 6.162 In the Watershed Protection (WP) overlay district, no use of land shall result in the rendering impermeable of more than 15% of the total area of any lot, or more than 20% with artificial recharge, or a total of 2,500 square feet, whichever is greater.

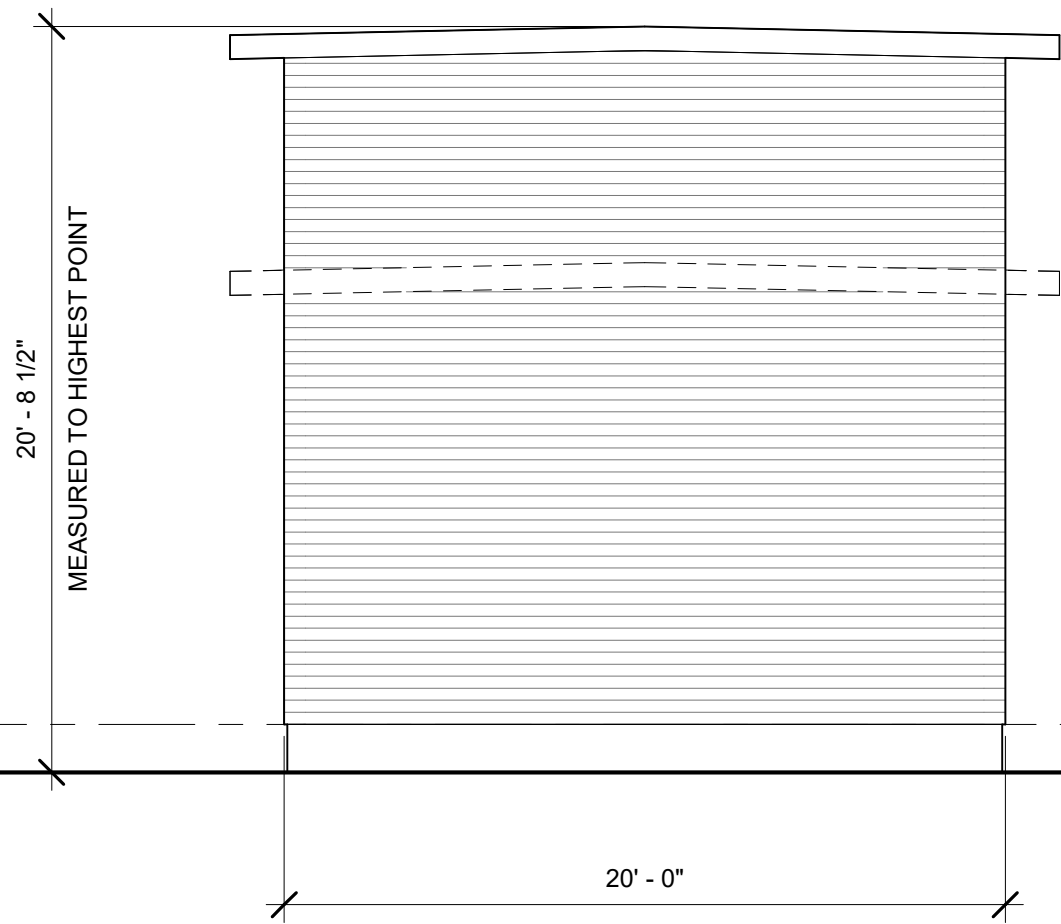
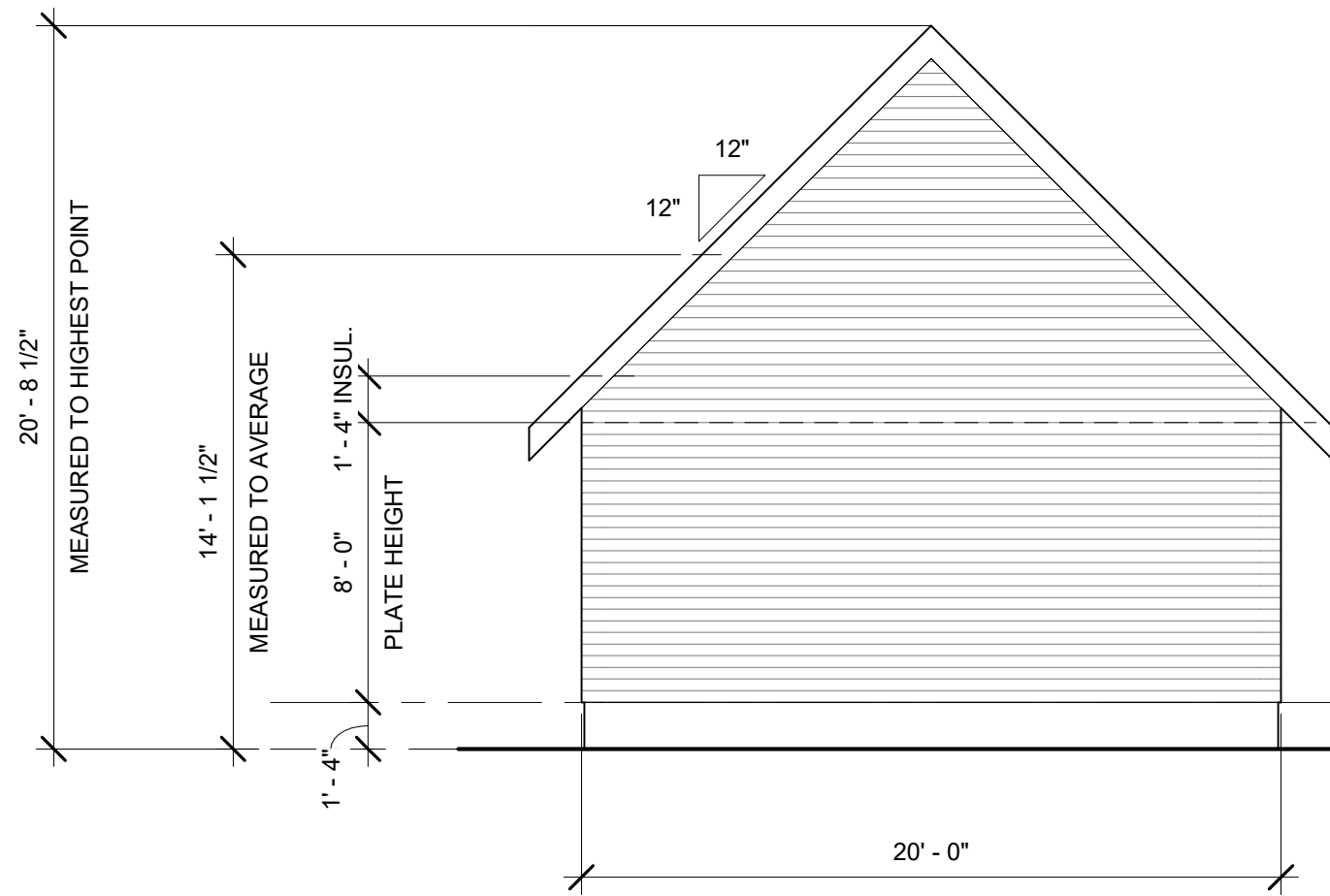
6.17 Minimum and Maximum Height

- 6.170 In all districts, the minimum or maximum height of a building shall be measured as the vertical distance from the average finished grade on the street side of the structure to the highest point of the roof for flats roofs, to the deck line for mansard roofs, and to the average height (midpoint) between the highest eaves and ridge of the main body of the roof for gable, hip, shed, saltbox, and gambrel roofs, or combinations thereof.



Section 6.17—Building Height

- 6.171 In the B-G, B-L, B-VC, B-N, COM, and R-VC districts, the maximum height of buildings may be modified under a Special Permit granted by the Special Permit Granting Authority authorized to act under the provisions of this bylaw for compelling reasons of building function, utility, or design, including but not limited to allowing construction of the full number of maximum floors under difficult site conditions such as steep grades, or with a pitched roof design, or similar conditions. In granting any such modification, the Special Permit Granting Authority shall consider the patterns of height and roof styles established by existing buildings, structures, and landscape features in the surrounding area, and provided that in no case shall the height of any exterior face of a building exceed the permitted height by more than ten (10) feet.

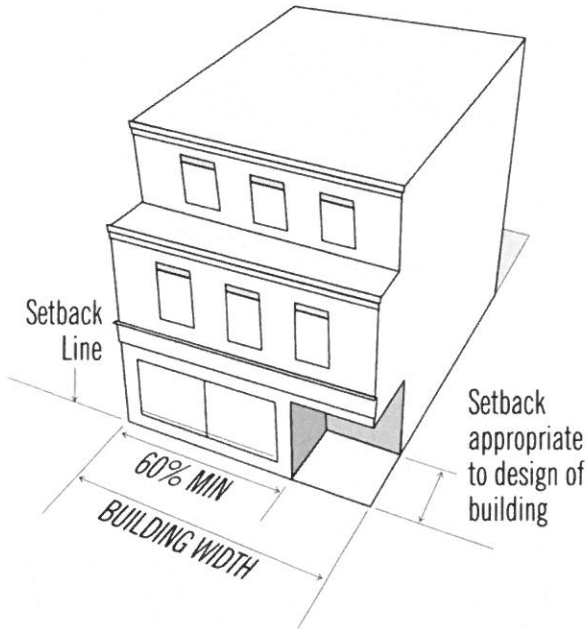


FIRST FLOOR
100' - 0"

GRADE
98' - 8"

Appendix A - Figures

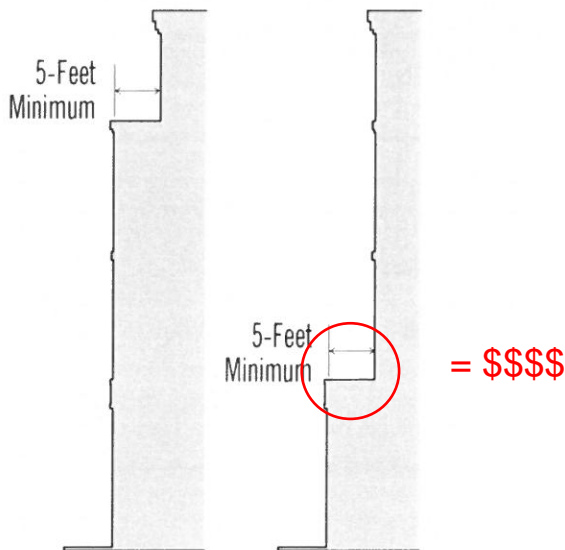
7-1-2



OBJECTIVE RESULTS OF SETBACK PROVISION

- CREATES NEED FOR ADDITIONAL STRUCTURE WHICH TRANSLATES TO ADDITIONAL PROJECT COSTS
- REDUCES ABILITY OF UNIT LAYOUTS TO STACK AND INCREASES PROJECT COMPLEXITY AND PROJECT COSTS
- REDUCES USABLE SQUARE FOOTAGE OF UPPER STORY OF BUILDING WHICH TRANSLATES INTO LESS RENTABLE SQUARE FOOTAGE AND POTENTIALLY LESS # OF UNITS IN PROJECT

7-1-3



SUBJECTIVE RESULTS OF SETBACK PROVISION

- DOES NOT MEANINGFULLY REDUCE BUILDING'S PERCEIVED SCALE
- CREATES LESS ARCHITECTURALLY ATTRACTIVE BUILDINGS
- CREATES BUILDINGS THAT ARE MORE DIFFICULT AND EXPENSIVE TO MAINTAIN AND/OR MORE LIKELY TO FAIL PREMATURELY
- CREATES BAD FOREGROUND VIEWS FOR BUILDING'S UPPER STORY RESIDENTS (MEMBRANE ROOFING IS KIND OF UGLY)

Sections showing setback at 4th story and 2nd story