February 22, 2021

City of Portland Bureau of Development Services: Applicant's Response to the Appeal's Memorandum February 9nd, 2021

Dear Commissioners,

We continue to support the city staff's height AD approval on this development. Below is our response to the Appeal's LU 20-134213 AD Memorandum.

The City has unequivocally stood by its decisions base on existing codes and **precedential decisions** on a broad application. The city granted the my development a height adjustment of 23 ft above street grade to the **highest point of the building**. This highest point impact the entire home, both the front and back of the building. **In chapter 33.930.050 and figure 930-5 below provide how Oregon Structural Specialty Code measure height to the highest point of the roof. Chapter 33.110 figure 110-2 diagram below also provide how to measure height from a downhill home that's greater than 20%. The Oregon Structural Specialty Code clearly define and support this height adjustment**. However, the Appellant mistakenly claims that City granted different height adjustments for both 'front and back' of the development. Then proceeds to use this made up claim to support why the back of the back development should be restricted in height. The appeal attempt to redefine the height measurement befitting to her personal gain and ignoring the evidence and codes provided. The City did not erroneously interpreted the code.

Figure 930-5
Measuring Height – Roof Types

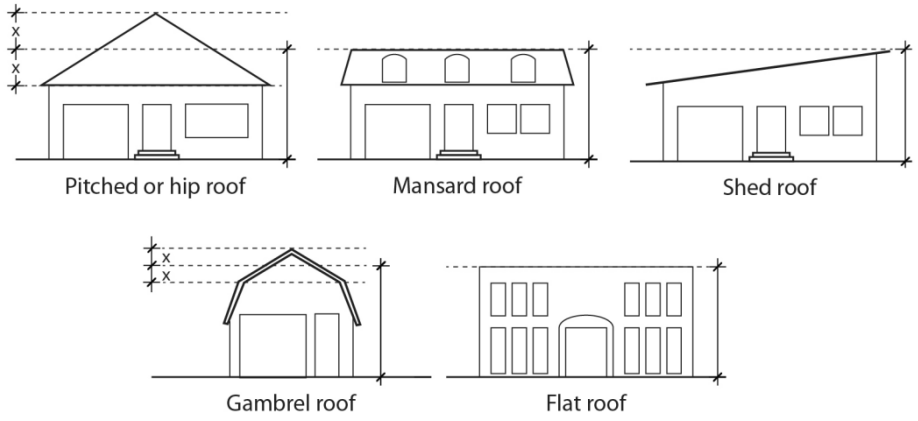
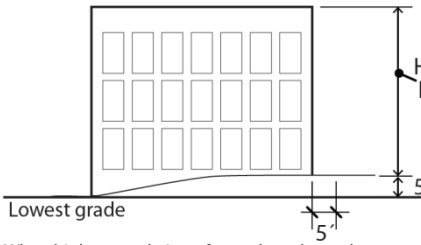
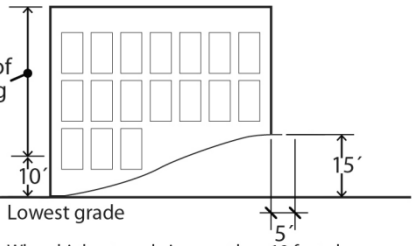


Figure 930-6
Measuring Height – Base Point 1



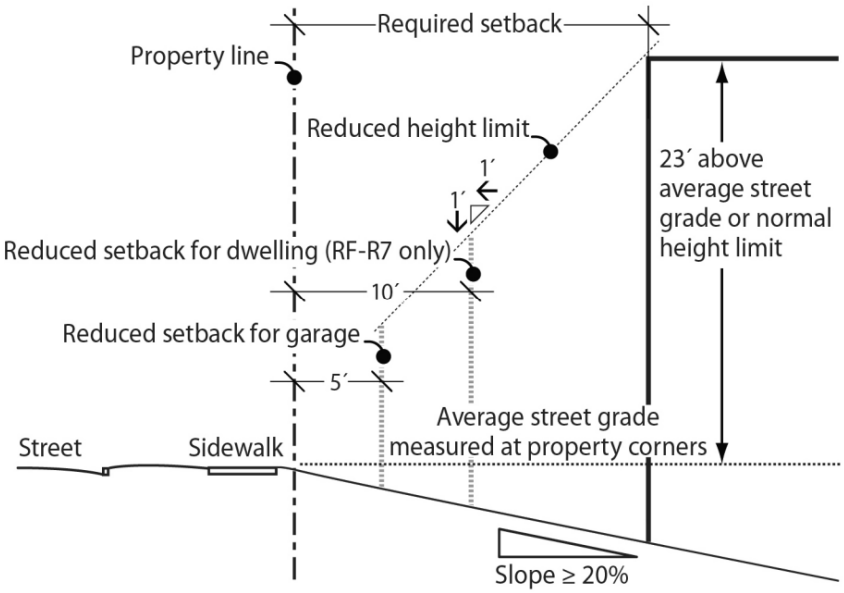
When highest grade is 10 feet or less above the lowest grade, the base point is the elevation of the highest adjoining sidewalk or grade within a 5-foot horizontal distance.

Figure 930-7
Measuring Height – Base Point 2



When highest grade is more than 10 feet above the lowest grade, the base point is the elevation 10 feet above the lowest grade.

Figure 110-2
Exceptions To Front Building Setback And Garage Entrance Setback—Downhill



This steeply sloping lots diagram in Figure 110-2 assumes a lot only slopes greater than 20% down away from the street in an orthogonal direction. My lot slopes more than 20% parallel and orthogonally to the street. *And most streets are not constructed steeper than 10% and most of the streets in west hills may have short lengths greater than 10% but most are less than 10%*. This mean property constructed along this street potentially do not need to request an adjustment because the street slope would not exceed 15% as a maximum. When the City applied code, our development is negatively impacts in height to twice the extent. The argument made by the city that the intent of the code was to limit downhill steeply sloping sites to a 23-foot height generally at the street side of the building is consistent both with the typical application of this code. **It is not far fetched to say that we didn't need this adjustment to achieve this height for the reasons provided above.** The design of the house meet the intent of how the city consistently applies this code. We believe the city was very neutral in regards to interpretation and application of this code and both parties are impacted fairly.

The city did not invent code applications, the City applied the code consistently. The code does not specify for steeply sloping lots where to measure height nor does it specify exactly how to attain an average height. City chose to apply a fair code interpretation by requesting height to be average and grade along the street. Streets are rarely constructed with a longitudinal slope greater than 10% which is the condition that is really affecting the application of the code. When considering the code writer's interpretation as paired with the diagrams and language of the code we feel the city has been consistent in its interpretation. Some staff would not have even requested an adjustment for a max height of 23 feet at the face of the building. Thus we feel our

reviewer was very sensitive to the neighbor's conditions and the impacts

We provided evidence showing there are as numerous 2 story homes on the downhill side of the street. The City applied its subjectivity to code interpretation in a reasonably fair manner protecting the highest value of the interest of both appellant and applicant. It's as subjective to negative and adjustment to obtain a modest 2 story building at street facade as interpreting the steeply sloping lot height criteria.

All homes on hillsides have a modest perspective and an over burdensome massive perspective whether uphill or downhill. Applicant found that the neighborhood has a blanched mix of 2 stories above street and 1 story above street buildings all over this neighborhood.

We feel "livability" applies both to surrounding and applicant's project. The solar access is intended to provide solar access to maximize the extent all year and in the shade of appellant house ⅔ of the time for 6 months. Applicant will only have few hours of east solar in winter and only 2 months of overhead solar access.

Again we ask the commissioners to support the city staff's fair and equaltable height adjustment approval on this development LU 20-134213 base on evidence and the codes provided.

Regards,

Diem Le, Applicant