



To: Mr. Jeff Jack, Chair and
Members of the Board of Adjustment

From: John M. McDonald, Development Services Manager
Development Services Department

Date: April 1, 2015

Re: An Appeal Request of a Letter of Clarification
Case No. C15-2015-0038

Mr. David Piper has appealed a letter of clarification written on behalf of the Director of Development Services Department (formerly Planning and Development Review Department) to the Zilker Neighborhood Association (ZNA) in reference to allowing dormers as a part of a habitable attic exempt from gross floor area calculations under Section 3.3.3.(C).

This information is being provided in addition to the letter of clarification written on January 12, 2015 and to address additional information the department received at 3 pm on April 1, 2015 from the ZNA.

Further clarification of letter dated January 12, 2015

At this time I would like to further clarify staff's position on the phrase in Section 3.3.3.(C)(5), which states "and adds no additional mass to the structure." In the case of new construction no mass is present until a design of a structure is created to evaluate mass. Subchapter F simultaneously restricts gross floor area through establishing a maximum Floor-to-Area Ratio (FAR) for a proposed development and allows for certain areas of the proposed development to be exempt from the calculation of FAR. In the case of a dormer present in an exemptible attic space, additional mass cannot be included to an area exempt from the calculation of mass (FAR). This is the reason staff feels the phrase is not interpretable nor does it meet any logical evaluation parameters.

Staff responses to the document submitted by the ZNA labeled "Supplemental Material: Alternative interpretations of the McMansion attic exemption".

Alternative interpretation 1 – No comment.

Alternative interpretation 2 – The Residential Design and Compatibility Commission's (RDCC) purview is to consider modifications to the maximum floor-to-area ratio or maximum square footage of gross floor area. Unless a design exceeds the maximum

FAR by means of areas not exempt from gross floor area calculations, the RDCC does not have purview over a design that meets 3.3.3.(C) of Subchapter F. Staff has consistently worked with the RDCC and maintained open communications on matters of Subchapter F. See Attachment A but more specifically the communication from William Burkhart under "Fourth Response" dated March 25, 2015.

Alternative interpretation 3 – The height of a dormer above the designed slope of the main roof is limited by 3.4 Height of Subchapter F as outlined in the letter of clarification provided to the ZNA. This section of Subchapter F was written to specifically address dormers and place additional restrictions on a dormer's height and mass.

In closing, staff would like to inform the Board of Adjustment that it has been a practice of staff to include dormers in the area of an exemptible attic since inception of the Subchapter F ordinance, currently and following the 2008 Subchapter F rewrite.

If you have any questions, please contact me at 974-2728 or by e-mail at john.mcdonald@ci.austin.tx.us.

cc: J. Rodney Gonzales, Director, DSD
Greg Guernsey, AICP, Director, PZD
Carl D. Wren, P.E., Building Official, Assistant Director, DSD
Kathy Haught, Division Manager, DSD
Daniel Word, Planner Principal, DSD

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Attachment A

From: McDonald, John [<mailto:John.McDonald@austintexas.gov>]
Sent: Monday, March 23, 2015 5:00 PM
To: William
Cc: Word, Daniel
Subject: FW: 2015 Goodrich Avenue
Importance: High

Hi William,
Attached is the letter of clarification I provided to the Zilker Neighborhood Association on why dormers are allowed in the design of an attic exempt from Floor-to-Area (FAR) calculations. The Zilker Neighborhood Association has filed an appeal of my decision to allow dormers in an exemptible attic based on this letter to the Board of Adjustments on April 13th. Any input (especially at the meeting if possible) would be greatly appreciated.

Respectfully,
John M. McDonald
Development Services Manager
Residential Plan Review/PDRD
974-2728 – Office
john.mcdonald@austintexas.gov

From: McDonald, John
Sent: Monday, January 12, 2015 4:03 PM
To: Dave Piper
Cc: Wren, Carl; Roig, Jose G; Haught, Kathy; Word, Daniel; Hernandez, Tony [[PDRD](mailto:Tony.Hernandez@austintexas.gov)] (Tony.Hernandez@austintexas.gov)
Subject: 2015 Goodrich Avenue

Mr. Piper,
I have attached a letter of clarification that goes over the rationale for approving the original plan review at 2015 Goodrich Avenue. Please feel free to distribute to the other Zilker Neighborhood Association members that attended the December 29, 2014 meeting as I did not have their email addresses readily available.

Respectfully,
John M. McDonald
Development Services Manager
Residential Plan Review/PDRD
974-2728 – Office
john.mcdonald@austintexas.gov

Attachment A

McDonald, John

From: William <william@brkartstudio.com>
Sent: Wednesday, March 25, 2015 8:25 PM
To: McDonald, John
Cc: Word, Daniel
Subject: RE: 2015 Goodrich Avenue

Hi John,

The letter and it's explanation and the background documentation look fine to me; in addition to being on the McM task force itself, I was also on the re-write task force and that's all consistent. I had an exchange with David Piper - you weren't cc'd at the time on my own response but you're welcome to add that exchange to the back-up also – it's copied below and I'll forward it all you from the BC email site.

First response:

David,
The attic exemption issue has been worked on by the RDCC extensively, but not specifically with respect to dormers other than shape and establishing overall building height. As you may know, there is also a ceiling height/area ratio requirement for an exemption and the city had been requiring building permit documents to very clearly illustrate compliance with that requirement - nevertheless, there can certainly be a problem; it would help if I had some photos to illustrate the issue, and a link to the permit documents - you can post them here and we can put the discussion on the agenda in December if it looks like there's a misinterpretation or another problem happening. I'm aware there is a potential loophole in the language wrt that area/height requirement and it might be that what you're seeing is exploiting that loophole.
William Burkhardt/Chair"

Second Response:

David, I'll have a look at it and get back to you later toward evening - I'm crunched for time for the next few hours.
William"

Third Response:

David,
You might have a case with the roof slope requirement of 3:12; those shed dormers are 1.5:12 - that might force a redesign, either to a steeper slope or to a different type of dormer and in either case that will affect the total exempt area design. An owner is allowed a 15' dormer projection into the setback plane on each side of the roof; dormers complying with the exception are considered part of the roof structure for the purpose of not adding to mass.
William"

Forth Response:

"What I'm saying is that an exempt attic can have dormers, that by definition a dormer is considered "contained within the roof structure". The dormer may or may not be exempt - in the case you have I wouldn't consider the dormer exempt - but it could be if the roof slope were 3:12, and it may or may not need the dormer tent exception, but the intent of the ordinance was to allow construction of a type and form previously seen on traditional houses - and those typically make use of dormers to achieve usable space which contained under a primary roof envelope.
William"

I might be travelling on the 13th but if not I'll make the BoA meeting.

William

William Burkhardt AIA