

**BOROUGH OF PENNINGTON
ORDINANCE 2017-3**

**AN ORDINANCE AMENDING CHAPTER 215 OF THE CODE OF THE
BOROUGH OF PENNINGTON, CONCERNING ZONING, TO CLARIFY
PROVISIONS AND TO ELIMINATE REGULATION OF ROOFTOP SLOPES**

WHEREAS, Borough Council, on the recommendation of the Application Review Committee of the Borough Planning Board, seeks to amend Chapter 215 of the Borough Code, concerning Zoning, to clarify various provisions and to eliminate regulation of rooftop slopes;

WHEREAS, the recommendations of the Application Review Committee reflect the advice of the Borough Planner and, with respect to rooftop slopes, the Historic Preservation Commission as well;

WHEREAS, the intent of the clarifying provisions is to: (1) eliminate surplus words from the definition of “floor area” and explicitly exclude from “floor area” the under-roof areas of sheds and gazebos; (2) eliminate from the definition of “story” the redundant and confusing explanation of “ceiling;” and (3) merge the yard area requirements in Code Section 215-50 into a consolidated Section 215-15, so that the requirements concerning yards are in one place;

WHEREAS, eliminating the regulation of rooftop slopes is grounded on the premise that the standards imposed by the Code, Section 215-16 (“the Slopes Ordinance”), frustrate good design without substantially accomplishing their purpose;

WHEREAS, the purpose of the Slopes Ordinance is to preserve light and air in the side yards and minimize the impact of the height of a residential structure on neighbors, but the architectural adjustments required by the ordinance provide only a minimal effect and the purpose is better served by other provisions of the Code regulating the bulk of structures, including restrictions on floor area ratio, setbacks, height limitations, maximum house size, maximum size of detached garage, number of structures permitted on a lot and impervious coverage limitations, and the benefit of minimizing regulation of roof slopes is an evolving mix of architectural styles

WHEREAS, in the amendments which follow, brackets [] denote deleted language and underlining indicates new language;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, as follows:

1. Section 215-8 of the Code, concerning Definitions, is hereby amended with respect to the definitions of “Floor Area, Gross (G.F.A.) or Total” and “Story,” as follows:

“Floor Area[, Gross G.F.A. or Total]. The sum of the gross horizontal area of each full story of a building, as ‘story’ is defined herein [on a lot], measured from the exterior face of the exterior walls, provided that any under-roof parking area and any under-roof area of a shed or gazebo[,] shall not be included in the [G.F.A.] floor area calculation. For attached dwelling units/buildings, the [gross] floor area shall be measured from the center line of a wall separating the two dwelling units/buildings.”

“Story. The vertical distance between the finished surface of a floor and the finished surface of the floor above it. Or, if there is no floor above, then the vertical distance between the finished surface of a floor and the ceiling above it. For the purpose of this chapter:

[A. The underside of a roof shall not be considered a ceiling; rather, the underside of the highest horizontal surface separating the area above from the remainder of the structure below shall be considered the ceiling.]

A[B]. Cellars and basements ordinarily shall not be considered stories when considering the height of a building except, however, that:

(1) A finished basement and/or cellar in nonresidential buildings shall be considered a story for the purposes of the height, floor area and parking requirements of this chapter unless used and restricted solely for ancillary storage.

(2) A basement in a nonresidential or residential building, whether finished or not, shall be considered a story for the purposes of the height, floor area and parking requirements of this chapter when the distance from the undisturbed natural grade to the finished surface of the floor above the basement is more than three feet for more than 50% of the total perimeter of the building or is more than eight feet at any point.

B[C]. A half-story is the area under a pitched roof at the top of a building, the floor of which is at least three feet, but no more than six feet, below the line of intersection of the roof and wall face.

C[D]. The attic or area under a pitched roof at the top of a building shall be considered a full story for the purposes of this chapter when the head room or ceiling at a height of seven feet or more above the attic floor is more than 1/3 of the total area of the floor directly beneath and has access via code-compliant stairway for habitable space from the floor below.”

2. Section 215-15 of the Code, concerning Yard requirements, is amended by relocating paragraphs A and B of Section 215-50 to this section, designating them new paragraphs E and F, as follows:

“215-15. Yard requirements.

A. All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which located. Corner lots shall provide the minimum front yard requirements for the respective zone for both intersecting streets, for both principal and accessory buildings.

B. Where a building lot has frontage on a street which the Master Plan or the Official Map of the Borough indicates is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

C. No front yard shall be used for open storage of boats, vehicles or any other equipment. This subsection should not be construed to prohibit the parking of a motor vehicle on a driveway located in a front yard.

D. In the R-80 Zone, at least 50% of the front yard shall be lawn or landscaped and shall not be used for the parking of cars or other vehicles. In the R-100 Zone, at least 70% of the front yard shall be lawn or landscaped and shall not be used for the parking of cars or other vehicles.

E. Front yards. In any residential zone where 50% or more of the lots within a distance of 500 feet on the same side of the street are developed, the front yard requirements for any lot within such area shall be the average of the existing front yards on the developed lots.

F. Side yards. In the case of lots upon which an existing structure is located, the combined total side yard requirements shall be reduced by six

inches for each foot by which a lot is less than the minimum requirement for the zone in which located. In any case, the side yard width for either side yard shall not be reduced to less than 50% of the requirement of said zone.”

3. Section 215-16 of the Code, concerning regulation of the Slopes of rooftops, is hereby deleted in its entirety, as follows:

[“Section 215-16. Slopes.

A. All points of any building on a lot shall lie below planes sloping inward and upward from the property lines and having horizontal to vertical slopes as specified below for the respective zones:

(1) R-80: 1.0 to 1.5.

(2) R-100, R-A and O-R: 1.0 to 1.0.

(3) TC: no requirement; see Schedule of Area, Yard and Building Regulations.

(4) B-H and O-B: 3.0 to 1.

B. The foregoing notwithstanding, the dimensions shown in the Schedule, Column Nos. 6 through No. 9, inclusive, shall be held to be the absolute minimum yard requirements regardless of building height.”]

4. Section 215-50 of the Code, concerning Permitted yard area modifications, its substance having been relocated to Section 215-15 as set forth above, is hereby deleted in its entirety, as follows:

[“215-50. Permitted yard area modifications.

A. Front yards. In any residential zone where 50% or more of the lots within a distance of 500 feet on the same side of the street are developed, the front yard requirements for any lot within such area shall be the average of the existing front yards on the developed lots.

B. Side yards. In the case of lots upon which an existing structure is located, the combined total side yard requirements shall be reduced by six inches for each foot by which a lot is less than the minimum requirement for the zone in which located. In any case, the side yard width for either side yard shall not be reduced to less than 50% of the requirement of said zone.”]

5. This Ordinance shall be effective upon passage and publication as provided by law.

Introduced: February 6, 2017

Advertised: February 17, 2017

Public Hearing: March 6, 2017

Adopted: March 6, 2017

Published: March 10, 2017

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

Anthony Persichilli, Mayor