

DEPARTMENT OF LICENSES AND INSPECTIONS CODE BULLETIN OF INFORMATION No. Z-0502		CODE OF GENERAL ORDINANCES OF THE CITY OF PHILADELPHIA TITLE 14 — Zoning Code
SUBJECT OF BULLETIN: SETBACKS and HEIGHT LIMITATIONS IN RC-4, C-4 and C-5 DISTRICTS		REFERENCE CODE SECTION(S): 14-103(3), 14-214 and 14-305
ISSUED BY		ISSUE DATE
NAME: Eileen Evans	SIGNATURE:	March 24, 2005
TITLE: Deputy Commissioner		PAGE 1 OF 2

BACKGROUND:

Several proposals have been submitted to the Department wherein the applicant is seeking additional height above 50 ft. by constructing the building along a 45 degree recession plane per §14-305(7) (c) (.2) (.b). Heretofore, the Zoning Unit had been denying these requests (resulting in the need for a variance from the Zoning Board of Adjustment) citing §14-305(5) (a) – buildings or portions of buildings abutting Chestnut Street shall have no setback – and §14-103(3) – where a property is subject to more than one control or requirement, the most restrictive district requirement or control shall apply.

ISSUE:

How to resolve the seeming conflict between §14-305(5) (a) and §14-305(7) (c) (.2) (.b) as they relate to building setback and height limitations? (This question and discussion apply to similar subsections in 14-305 and in 14-214 as enumerated below.)

DISCUSSION:

A strict reading and a literal interpretation of the Zoning Code may lead one to agree with this interpretation and application of these relevant sections of the Philadelphia Code.

Case Law has stated that one is not only to read the letter of the law, but the spirit or intent of the law in question and if leniency is to be granted, it is to be granted in favor of the owner/applicant.

A reading of §14-305(1) (a), (d), and (e) helps one to gain insight into the intent/spirit of this code section.

A strict/literal reading of the relevant sections conflicts with the intent/spirit of the same sections. However, it is reasonable to conclude that the intent of this section was to allow for construction of buildings above 50 ft. in height by allowing for said construction to occur along a 45 degree recession plane thereby allowing for additional height while at the same time maintaining the desired ambiance and light/air filtration.

DIRECTION:

Accordingly, structures will be reviewed in light of the analysis contained herein and will be allowed to seek additional height in accordance with:

“C-4” Commercial and “C-5” Commercial Districts –

§14-305(7) (c) (.2) (.b) (Chestnut St.)

§14-305(7) (e) (.2) (.b) (Walnut St.)

§14-305(7) (f) (.2) (.b) (Locust St.)

“RC-4” Residential District –

§14-214(7) (c) (.2) (.b) (Chestnut St.)

§14-214(7) (e) (.2) (.b) (Walnut St.)

§14-214(7) (f) (.2) (.b) (Locust St.)

notwithstanding the limitations of the following sections which would otherwise apply:

Zoning Maps and Districts –

§14-103(3)

“C-4” Commercial and “C-5” Commercial Districts –

§14-305(5) (a) (.1) (.a) (Chestnut St.)

§14-305(5) (b) (.1) (.a) (Walnut St.)

§14-305(5) (c) (.1) (.a) (Locust St.)

“RC-4” Residential District -

§14-214(5) (a) (.1) (.a) (Chestnut St.)

§14-214(5) (b) (.1) (.a) (Walnut St.)

§14-214(5) (c) (.1) (.a) (Locust St.)