



# Memo

**To:** Ken Lacoste, First Warden  
Town Council

**From:** Margie Comings, Chair  
Planning Board

**Date:** February 12, 2020

**Re:** Zoning Ordinance amendment (Section 202 Definitions) requiring that within Special Flood Hazard Areas building height be measured from Base Flood Elevation.

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During the 2018 Rhode Island Legislative Session, a bill was enacted (effective March 1, 2019) that amended the definition of building height within the Zoning Enabling Act, as follows:

(12) Building Height. For a vacant parcel of land, building height shall be measured from the average, existing-grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude spires, chimneys, flag poles, and the like. For any property or structure located in a special flood hazard area, as shown on the official FEMA Flood Insurance Rate Maps (FIRMs), building height shall be measured from base flood elevation, and where freeboard, as defined in this section, is being utilized or proposed, such freeboard area, not to exceed five feet (5'), shall be excluded from the building height calculation; provided, however that the Rhode Island coastal resources management council design elevation maps may be used by an owner or applicant to establish a base flood elevation for a property that is higher than the official FEMA FIRMs.

This amended definition allows for greater building height within Special Flood Hazard Areas (SFHAs). Within SFHAs, building height must no longer be measured from average existing grade, but from Base Flood Elevation (BFE) or BFE plus freeboard. As you recall, the Town amended our local definition of building height in 2018 to address the state legislative change

to the building height definition at that time which excluded up to 5 feet of freeboard from the calculation of building height.

With this more recent amendment, applicants will also be able to choose whether they use FEMA's Flood Insurance Rate Maps (FIRMs) or the Coastal Resources Management Council's (CRMC) Design Elevation Maps to establish BFE. In many cases, the design flood elevations depicted on CRMC's maps are much higher than the BFE required by FEMA. However, CRMC Design Elevation Maps have not yet been developed for Block Island (due to the need for different modeling and lack of funding) and Grover Fugate, Executive Director at CRMC, told the Town he did not anticipate development of those maps in the near future. Therefore, New Shoreham can proceed with a Zoning amendment excluding reference to those maps.

**A local Zoning amendment to the definition of Building Height is required in order for the Town to be consistent with State law.** The enclosed (and below) draft amendment to Section 202 of the Zoning Ordinance requires that within Special Flood Hazard Areas building height be measured from Base Flood Elevation, rather than from existing average grade. The Planning Board voted during its November Planning Board meeting to forward the enclosed language to the Town Council for consideration and finds it is consistent with the Comprehensive Plan.

## **ZONING ORDINANCE**

### **Section 202. Definitions**

~~27. *Building Height.* The vertical distance from the average grade to the highest point of the existing or proposed structure, excluding appurtenant features such as chimneys, spires, flag poles, and cupolas.~~ For a vacant parcel of land, building height shall be measured from the average, existing grade elevation where the foundation of the structure is proposed. For an existing structure, building height shall be measured from average grade taken from the outermost four (4) corners of the existing foundation. In all cases, building height shall be measured to the top of the highest point of the existing or proposed roof or structure. This distance shall exclude appurtenant features such as chimneys, spires, cupolas and flag poles. For ~~buildings~~ any property or structure located ~~with~~ within a Special Flood Hazard Area, as shown on the official FEMA Flood Insurance Rate Maps, building height shall be measured from base flood elevation, and where the amount of freeboard is being utilized or proposed, such freeboard areas, not to exceed five (5) feet, shall be excluded from the building height calculation. above Base Flood Elevation shall be deducted from the building height calculation. ~~In no case, shall the deduction of freeboard area from building height calculation exceed five (5) feet.~~