MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
6/17/10

DATE: June 8, 2010
TO: Montgomery County Planning Board
VIA: Rose Krasnow, Chief, Development Review
Ralph Wilson, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the provision concerning sloping lots.

TEXT AMENDMENT: No. 10-06
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Elrich
INTRODUCED DATE: May 18, 2010

PLANNING BOARD REVIEW: June 17 2010
PUBLIC HEARING: June 22, 2010; 1:30pm

STAFF RECOMMENDATION: Disapprove.

As introduced, ZTA 10-06 would allow only those lots that slope down from the street to the rear of the lot to have additional stories on the rear of the lot. The existing sloping lot regulation allows stories in addition to the number of stories otherwise allowed in the zone to be constructed on the downhill side of the lot, whether the downhill side runs toward the street side or runs toward the back of the lot. However, building height in such circumstances is not permitted to be increased above that specified in the zone. This ZTA is intended to address the concern that the current sloping lot provision leads to infill development that is out of character with its neighbors and that additional stories on the street side of the lot add to the potential for a house to dwarf the dwellings on either side.

Staff does not believe this necessarily to be the case. Changes made by the Council to the methodology for measuring building height and to the maximum building height permitted for residential development in the R-60 and R-90 zones have minimized the potential for out-of-character bulk, while maintaining some degree of design flexibility for property owners. Changes made in 2008 further minimized the potential for massive out-of scale buildings in the smaller lot residential zones by establishing lot coverage requirements based on lot size, not on the minimum lot size requirement of the zone.

These recent efforts have been reasonably effective in controlling out-of-scale development on relatively small lots. Staff believes that the ZTA is unnecessary since the existing method of measuring height in the R-60 and R-90 zones minimizes the ability to build additional stories in the front yard or construct taller buildings given that height is now measured from the *average elevation along the front of the buildings*. The previous method measured height from the street grade and allowed additional height if the building was located on natural terrain that was higher than the street grade (terrace credit).

BACKGROUND/ANALYSIS

ZTA 10-06, sponsored by Councilmember Elrich, would allow only those lots that slope down from the street to the rear of the lot to have additional stories on the rear of the lot. The sponsor believes that the current sloping lot provision adds to infill development that is out of character with its neighbors. Additional stories on the street side of the lot are believed to add to the potential for a house to dwarf the dwellings on either side.

The ZTA would change the current sloping lot provision to read as follows:

59-A-5.41. Additional stories on sloping lot.
[On any**]** If the average elevation of the lot along the front lot line abutting a street is higher than the average elevation of the lot along the rear lot line, and the lot is a sloping lot, stories in addition to the number permitted in the zone in which the lot is located must be permitted on the downhill side of any building erected on the lot, but the building height limit must not otherwise be increased above that specified for the zone. This section must be implemented by an executive regulation adopted under method 2 of Section 2A-15.
* * *

Although the current sloping lot provision allows for additional stories on any side of a building located on the downhill side of a slope, *in no case can the building height exceed that of the zone.* It should be further noted that the applicability of sloping lots legislation in the one-family residential zones is limited to the R-40, R-60 and R-90 zones where the building heights are limited to 2 ½ stories or 30 or 35 feet.

Previously Approved Legislation

A. ZTA 03-27

On October 18, 2005, ZTA 03-27 (Ordinance No. 15-53) was adopted by the County Council. Two key components of the legislation included: revising the method of calculating building height for one-family residential buildings in the R-60 and R-90 zones; and revising the maximum allowable building height for one-family residential buildings in the R-60 and R-90 zones.

The ZTA established a definition for *"height of residential building in the R-60 and R-90 zones"* that measures height from the average elevation of the finished grade along the front of the building to either the highest point of roof surface regardless of roof type, or the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof. The previous methods for calculating building height included a measurement for structures setback less than 35 feet from the street (typical for the R-60 and R-90 zoned properties) measured from the level of approved street grade opposite the middle of the front of the building. This method also included what was generally known as the "terrace credit" where it allowed a building located on a grade above the street grade to be increased by the height of the terrace. As such, *the ability to provide additional stories in the downward slope towards the street, coupled with the additional height of the terrace, augmented the potential for establishing larger homes on smaller lots.*

Under ZTA 03-27, however, the terrace credit was eliminated from the height calculation for the R-60 and R-90 zones. Also, the building height measurement was changed from "the level of approved *street grade* opposite the middle of the front of the building" to the *average elevation of the finished grade along the front of the building to the highest point of roof surface regardless of roof type, or the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof.* Additionally, the finished grade cannot be higher than the pre-development grade. This approach eliminates the need to determine what is or is not a terrace and penalizes excessive terrace removal by tying the measurement of height to the average grade of the front finished elevation.

ZTA 03-27 also limited the residential building height to 30 feet at the roof midpoint or 35 feet at the roof ridge line. This was believed to be the most direct method to limit building height and remove perceived loopholes that allowed a home substantially above 35 feet in the zones where 35 feet was the nominal height limit.

B. ZTA 08-11

On December 9, 2008, ZTA 08-11 (Ordinance No. 16-31) was adopted by the County Council to implement a number of the recommendations of the Infill Housing Task Force including lot coverage for infill housing construction (based on lot sizes). The ZTA implemented this concept by creating a graduated scale for lot coverage in the R-200, R-90, and R-60 zones for lots smaller than 25,000 square feet. Lot coverage is based on actual lot size—not on the minimum lot size requirement of the zone. The Council retained the standard building coverage limits for one-story homes, one-story additions and other additions related to the scale of existing houses.

Staff believes that the uniform method of inverse proportional allowance (the larger the lot, the lower the percentage rate) assists in minimizing out-of-scale

buildings on smaller lots while also allowing larger building footprints on larger lots than on smaller lots.

GR
Attachments

1. Proposed Text Amendment No. 10-06
2. Building Height Measurement Diagrams (DPS Website)

ATTACHMENT 1

Zoning Text Amendment No.: 10-06
Concerning: Sloping Lots - Conditions
Draft No. & Date: 1 – 5/11/10
Introduced: May 18, 2010
Public Hearing:
Adopted:
Effective:
Ordinance No.:

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN MONTGOMERY COUNTY, MARYLAND

By: Councilmember Elrich

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the provision concerning sloping lots

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-5 "COMPLIANCE REQUIRED"
Section 59-A-5.41 "Additional stories on sloping lots"

EXPLANATION: ***Boldface*** *indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-A-5 is amended as follows:

Division 59-A-5. Compliance Required.

* * *

59-A-5.41. Additional stories on sloping lot.

[On any] If the average elevation of the lot along the front lot line abutting a street is higher than the average elevation of the lot along the rear lot line, and the lot is a sloping lot, stories in addition to the number permitted in the zone in which the lot is located must be permitted on the downhill side of any building erected on the lot, but the building height limit must not otherwise be increased above that specified for the zone. This section must be implemented by an executive regulation adopted under method 2 of Section 2A-15.

* * *

Sec. 2. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council

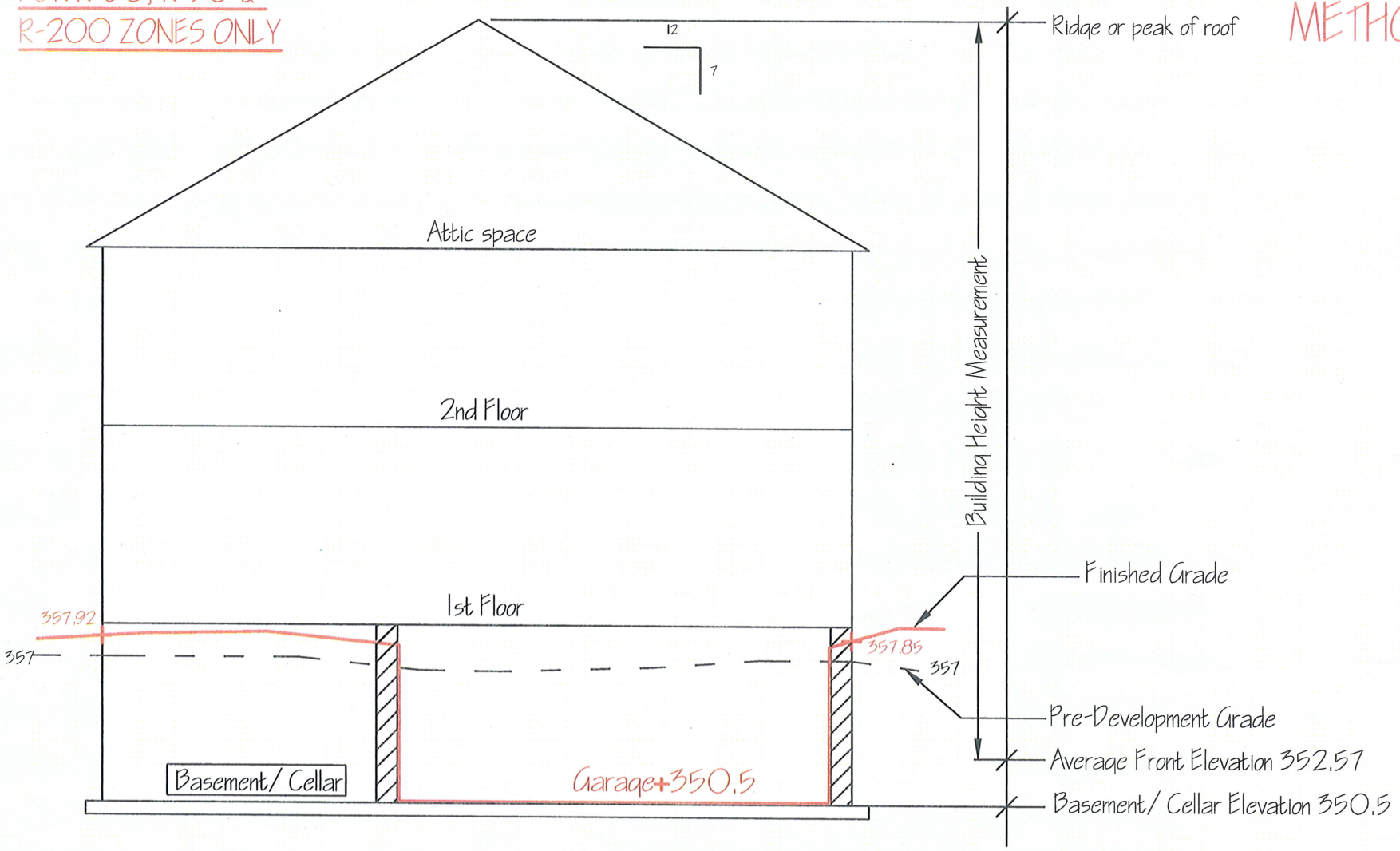
ATTACHMENT 2

BUILDING HEIGHT MEASUREMENT:

Average Elevation of Finished Grade Along Front of Bldg. to Highest Point of Roof

FOR R-60, R-90 & R-200 ZONES ONLY

METHOD 1



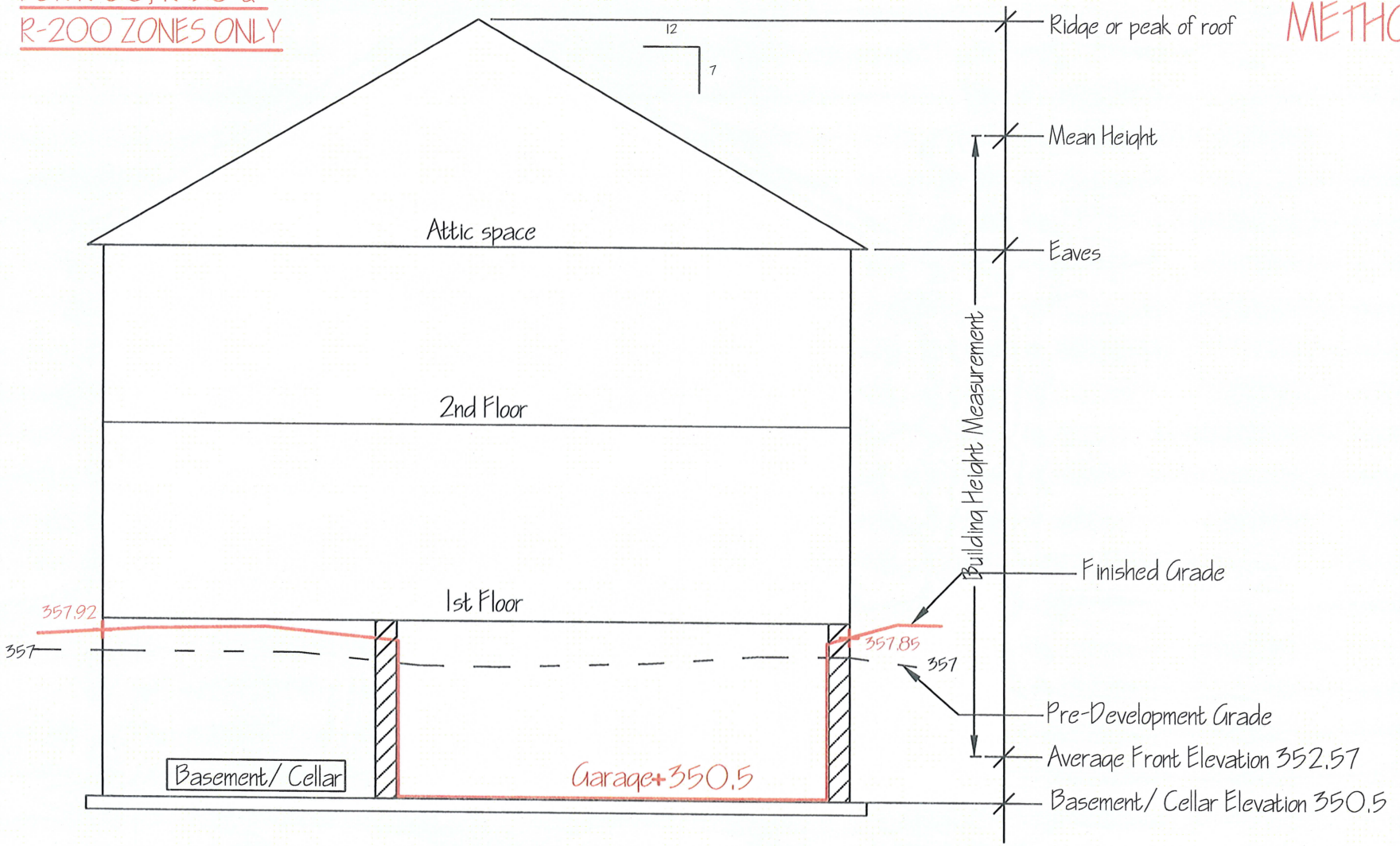
In the R-60, R-90 & R-200 zones, bldg. ht. is the vertical distance measured from average elevation* of finished grades along front of the bldg., to the highest point of any roof surface. For the purpose of determining bldg. ht. the average front elevation used will be based on either pre-development grade (existing grade) or finished grade whichever is lower at any given point along the front wall.* Average elevation is determined by multiplying each wall section of front facing planes, times the grade elevation adjacent to that section. Add all products together and divide by the total length of the front wall. This result is the average grade along the front of the bldg. See SAMPLE SITE PLAN FOR BUILIDNG HEIGHT MEASUREMENT.

BUILDING HEIGHT MEASUREMENT:

Average Elevation of Finished Grade Along Front of Bldg. to Mean Height Between Eaves and Ridge of Roof

FOR R-60, R-90 & R-200 ZONES ONLY

METHOD 2



In the R-60, R-90 & R-200 zones, bldg. ht. is the vertical distance measured from average elevation* of finished grades along front of the bldg., to the mean ht. between eaves and ridge of a gable, hip or mansard roof. For the purpose of determining bldg. ht. the average front elevation used will be based on either pre-development grade (existing grade) or finished grade whichever is lower at any given point along the front wall. *Average elevation is determined by multiplying each wall section of front facing planes, times the grade elevation adjacent to that section. Add all products together and divide by the total length of the front wall. This result is the average grade along the front of the bldg. See SAMPLE SITE PLAN FOR BUILDING HEIGHT MEASUREMENT.

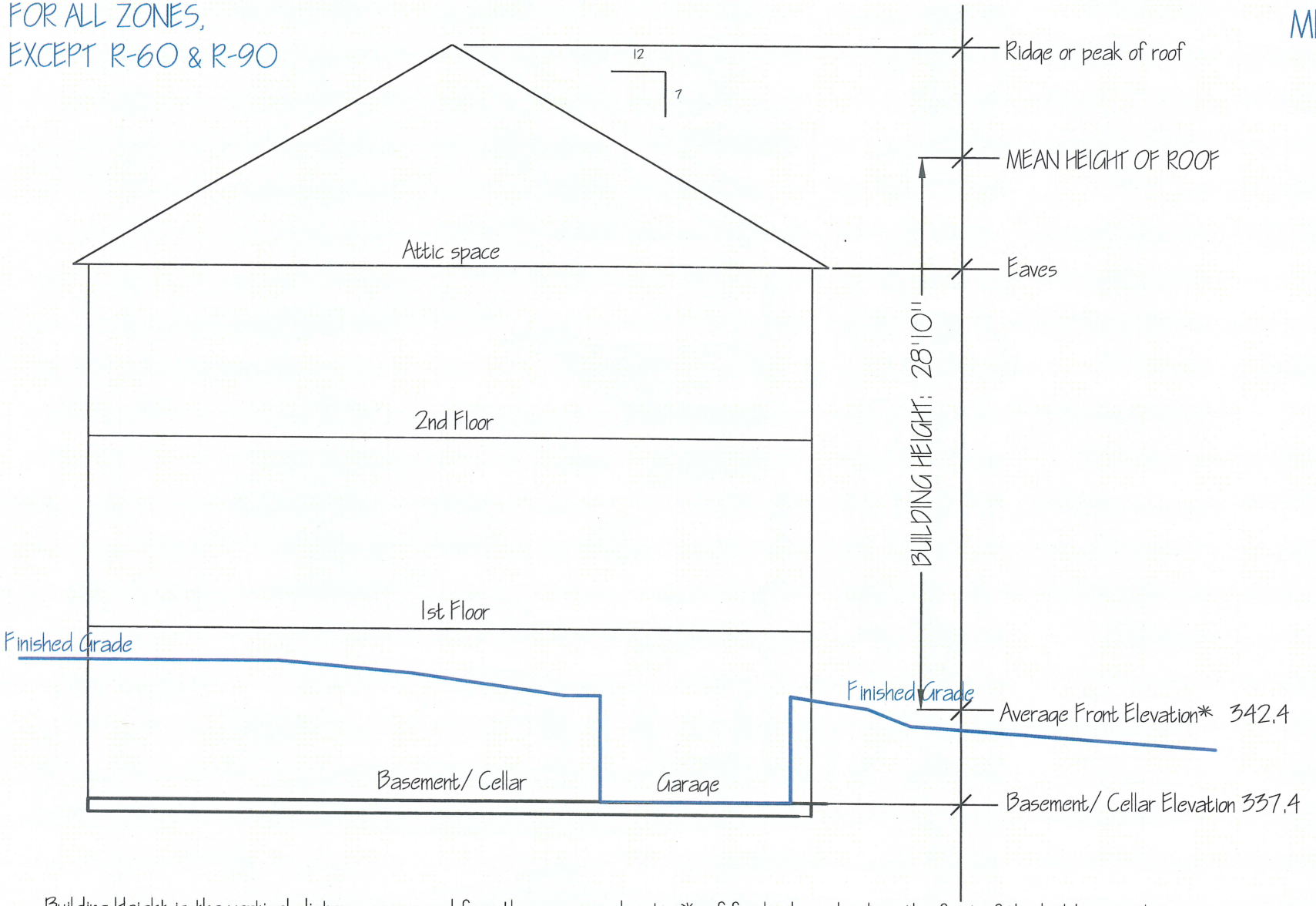
Revised 04/28/09

BUILDING HEIGHT MEASUREMENT

FOR ALL ZONES,
EXCEPT R-60 & R-90

BUILDING SETBACK FROM STREET LINE MORE THAN 35 FT.--USE AVERAGE FRONT ELEVATION

METHOD 3



Building Height is the vertical distance measured from the average elevation* of finished grade along the front of the building, to the highest point of roof surface of a flat roof, to the mean height between the eaves and ridge of a gable, hip, gambrel or mansard roof. *Average elevation is determined by multiplying each wall section of front facing planes, times the finished grade elevation adjacent to that section. Add all products together and divide by the total length of the front wall. This result is the average finished grade along the front of the building.

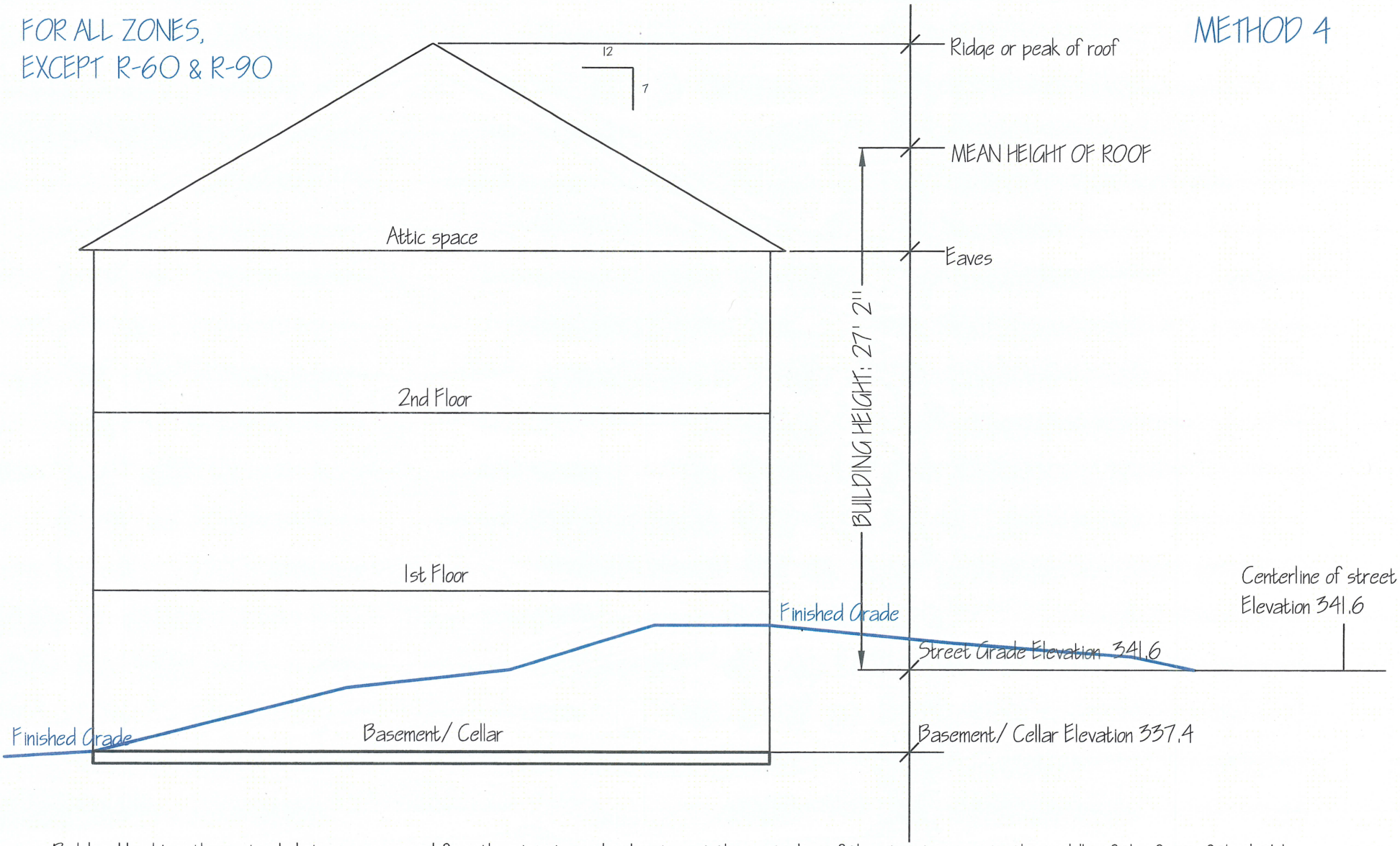
Revised 04/28/09

BUILDING HEIGHT MEASUREMENT:

BUILDING SETBACK FROM STREET LINE LESS THAN 35 FT.--USE STREET GRADE ELEV.

FOR ALL ZONES,
EXCEPT R-60 & R-90

METHOD 4



Building Height is the vertical distance measured from the street grade elevation at the centerline of the street, opposite the middle of the front of the building, to the highest point of roof surface of a flat roof, to the mean height between the eaves and ridge of a gable, hip, gambrel or mansard roof.

Revised 04/28/09