

July 19, 2022

Re: Dimensional Variance for Building Height – 1 Congress Street

Below is a summary of our analysis of this application as submitted:

Lot Merger - As part of a consolidation of two separate properties, earlier this year the former parking lot for Rudi's (located along Haven Court and High Street) was merged into a larger single lot with a new address of 1 Congress Street.

Character District Zoning - The character district zoning was adopted in 2013. It also included the adoption of the Building Height Standards. The former parking lot (35% of the merged lot) is located in Character District 4 (CD4) whereas the larger portion, fronting along Congress Street (65% of the merged lot), is located within the CD5.

Building Height Standards - The Building Height Standards are shown on the Building Height Map and they are largely independent from the designated character district. In this case, the merged lot has different character district and building height which is not unique to this property. Section 10.5A21.22 outlines how lots with multiple building height standards, like 1 Congress Street, are addressed. Given the lot's frontage on three different streets or public places (Congress and High Streets and Haven Court) the merged lot at 1 Congress Street is both a corner and a through lot. Thus, the required building height standard along the street or a public place applies to areas within 50' of a street or a public place. Beyond 50', the higher building height standard is permitted to "spill over" into a portion of the lot. Figure 1 illustrates that only a small spill-over area (shown in yellow) would be available to increase the building height to the higher standard. The remainder of the parking lot would be restricted to the lower building height.

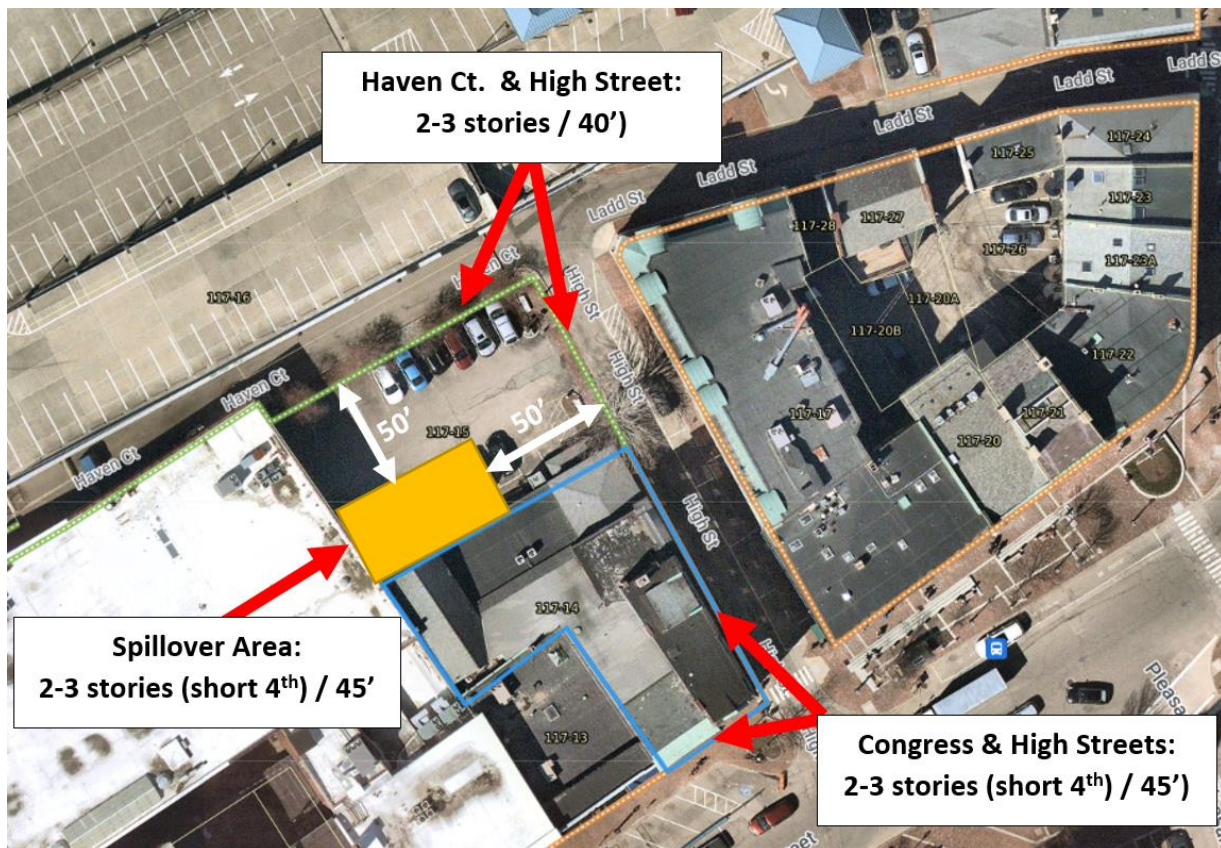


Figure 1 – Assigning Building Height Standards on Corner or Through Lots – 1 Congress Street

High Street and Haven Court – High Street is considered a public street. Due to city maintenance and public access rights, the City considers Haven Court either a street or a public place. Accordingly, the Zoning Ordinance applies the assigned building height standard to all three sides of the newly merged lot. Figure 1 shows:

- 80% of the assigned building height standard along High Street is 2-3 stories (short 4th) or 45;
- 20% of High Street is designated as 2-3 stories or 40’.

This lower building height was largely derived by the prior ownership structure and the parking lot’s relationship with the Newbury Building and Haven Court. It was also never contemplated that this lot would be merged with 1 Congress Street nor that centralized universal access would be proposed for the both the proposed and historic buildings.

Proposed Building Height – The average grade plane around the entire building is shown as 28.69’. This becomes the lower reference point to measuring the height of the building. The upper reference point is determined by measuring from either the top of a flat-roofed building or the mid-point between the ridge and the eave for a sloped-roof building. In this case, the applicant is proposing a hip-top mansard roof so the mid-point is used for the height measurements and the total average height of the proposed building is 42’-9 ½ “.¹

Number of Stories – Although the definition of a “short story” states that the story within a mansard roof is a short story, Section 10.5A21B of the Zoning Ordinance clearly states that attic space within a hip-top mansard roof is not considered a story. *Given the internal conflict, the intent of the ordinance is to treat the proposed hip-top mansard building as a 3 story building with an attic level.* The idea being, that the ordinance incentivizes the use of slope- versus flat-topped buildings within the character districts.

Staff Analysis – The proposed building shows an average building height of 42’ 9½ “. This represents less than 3’ over the allowed building height standard for a flat-topped building. The ordinance also allows for a 2’ parapet to be added to the cornice resulting in a 42’ building. Additionally, if a penthouse was considered instead of the mansard roof, it would also would result in a building height of 42’. So the difference here is diminimus. Importantly, the Zoning Ordinance also allows for an additional 10 feet of roof appurtenances above the 42’ so mechanical screens, vents, stair towers, elevator overruns or solar panels could protrude up to 52’ above the street level. The applicant is proposing to place a recessed well area within the center of the mansard roof that will not only screen the mechanical equipment but also the solar panels proposed for the building. Thus, this recessed well area avoids the need to further increase the visual appearance of the building from the street.

Staff Findings - Rather than proposing a taller, flat-roof building with a parapet or a penthouse level topped with roof appurtenances, the proposed hip-top, mansard roof building design is in substantial compliance with the dimensional standards of the character-based zoning. Thus, staff would respectfully suggest that the Board find this application as consistent with the purpose and intent of the zoning ordinance and a good example of using a sloped roof to hide mechanicals, stair wells, elevator overruns, solar panels while also providing universal access to the existing floor heights of the historic buildings.

Administrative Appeal – For the reasons stated above, the merged lot is both a corner and a through lot fronting on three separate streets or public places. Even if Haven Court was somehow determined not to qualify as a street or public place the increased building height would not be supported within 50 feet of High Street. Thus, a dimensional variance is required.

¹ Note that the applicant’s figures also show how the building height would be calculated if the building were segmented into three individual sections. Although I believe this is useful to better understand how the building segments respond to the required building heights along the street, I believe the Zoning Ordinance requires the average grade plane be used for the entire building as there are no vertical fire walls separating the segments.