

REPORT ON PUBLIC HEARING HELD SEPTEMBER 29, 2022

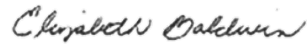
BY

THE DEPARTMENT OF LICENSES AND INSPECTIONS

ON THE CITY OF PHILADELPHIA REGULATIONS

UNDER SECTION 4-A-301.7 OF THE PHILADELPHIA CODE

Dated: 10/12/22



Department of Licenses and Inspections
Elizabeth Baldwin
Chief Code Engineer

Dated: 10/13/22

Approved: Reynelle Staley

Law Department
Reynelle Staley
Senior Attorney

1. Procedural Summary

Section 4-A-301.7 of the Philadelphia Code addresses amendments to zoning and construction permits; however, the Code does not include provisions that govern the allowable scope of amendment. For many years, the Department of the Licenses and Inspections (“the Department”) has limited the scope of amendments based upon departmental policy, driven by business process and subject to change.

On August 16, 2022, the Department adopted regulations to codify the allowable scope of amendments, which reflect current departmental policy with minor modification.

A request for a hearing was received through the Department of Records and, pursuant to the requirements of Section 8-407 of the Home Rule Charter, the Department scheduled a public hearing for September 29, 2022. Notice of the hearing was posted prominently on the Department’s website, and the requestor was contacted directly with the hearing date and time.

The hearing was conducted by Elizabeth Baldwin, Chief Code Engineer, Department of Licenses and Inspections, and attended by Reynelle Staley, Senior Attorney, on behalf of the City Law Department. No witnesses provided testimony during the hearing. Written comments were provided to the Department by Adam Laver of Blank Rome LLP and are attached as Exhibit C.

2. Action on the Regulation

Through this report on the September 29, 2022 hearing, the Department modifies the proposed amendment and adopts it as modified. A clean copy of the Regulation as amended is attached as Exhibit A hereto and shall become effective 11 days after the filing of this Report with the Records Department. A markup showing all changes made to the Regulation through this process is attached as Exhibit B.

3. Testimony

Written Testimony of Adam Laver of Blank Rome LLP:

Mr. Laver suggested that the regulations governing permit amendments only apply to permit applications filed on or after January 1, 2023.

Response:

The Department is authorized to accept amendments to permits under Section 4-A-301.7 of the Philadelphia Code and does so through departmental policy. The Department identified the need for regulations to establish clear and consistent parameters that may be relied upon by the permit holder and affected community members.

While the Department does not believe that limiting applicability to future permit applications is feasible, we do recognize an underlying concern about the restrictiveness of, and an inconsistency in, the proposed regulations. The regulations would enable the Department to approve an amendment to a building permit for an increase in work area, gross floor area, or building footprint in excess of 10% under extenuating circumstances. Such circumstances would

generally be limited to changes resulting from unforeseen conditions and/or those necessary to comply with the Philadelphia Building Construction and Occupancy Code. The Department failed to include a similar provision for modifications to the height of a building.

The amended regulation provides that the Department may approve an amendment to a building permit to increase building height by more than 10% or one story under extenuating circumstances and makes other technical changes.

DEPARTMENT OF LICENSES AND INSPECTIONS
REGULATIONS CONCERNING AMENDMENT TO PERMIT APPLICATIONS

The following regulations are hereby adopted under A-301.7 of The Philadelphia Code (“Amendments to Application”).

**TITLE 4. PHILADELPHIA BUILDING
CONSTRUCTION AND OCCUPANCY CODE**

SUB-CODE A – PHILADELPHIA ADMINISTRATIVE CODE

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CHAPTER 3

PERMITS

SECTION A-301 APPLICATION FOR PERMIT

* * *

A-301.7 Amendments to application: Subject to the limitations of Section A-301.8, amendments to a plan, application or other records accompanying the same shall be filed at any time before completion of the work for which the permit is sought or issued. Such amendments shall be deemed part of the original application and shall be filed therewith and requisite fees paid.

A-301.7.1 Zoning and use registration permit amendments: Amendments to zoning and use registration permits shall be subject to the Code provisions in effect on the date the amendment application is filed.

* * *

Regulation:

EXHIBIT A

A-301.7(R)

1. Zoning and Use Registration Permit Amendments.

a. Amendments to Zoning and Use Registration Permit applications must (.1) address the same subject matter as addressed in the original application, such as the height and area related to construction on a particular building, a change related to a particular use, or a modification of a parking configuration; and (.2) must constitute one of the following:

- Change in building height which does not exceed 10% of the approved height or a single story.
- Decrease in gross floor area or building footprint.
- Increase in gross floor area or building footprint not to exceed 10% of the original approval.
- Addition, removal or modification of roof decks and roof deck access structures.
- Modification to parking configuration.
- Modification to legal signage.
- Removal of a use from a group of uses previously approved.
- Comparable changes that do not increase the intensity of the approved use.

b. Modifications impacting a specific variance or special exception are regulated under Section 14-303(16) of the Philadelphia Code and are not eligible for amendment.

c. A deviation in building height of 3' or less that complies with the maximum building height allowed by the Zoning Code and does not result in a change in the number of stories is permitted under original approval and does not require a permit amendment.

2. Construction Permit Amendments. Amendments to Construction Permit applications must: (a) apply to the same general area with respect to which work is to be performed under the original application; (b) be consistent with the approved use in connection with which the original application was sought; and (c) are subject to the following additional limitations:

- An amendment may not result in an increase in height of 10% or one story, whichever is greater, unless otherwise approved.
- An amendment may not result in an increase in work area, gross floor area, or building footprint of more than 10%, unless otherwise approved.
- A change in permit scope that exceeds the limitations of an EZ Permit Standard is not permissible when the permit was issued in accordance with an EZ Permit Standard.
- An amendment may not result in a change in permit type.

EXHIBIT A

DEPARTMENT OF LICENSES AND INSPECTIONS
REGULATIONS CONCERNING AMENDMENT TO PERMIT APPLICATIONS

The following regulations are hereby adopted under A-301.7 of The Philadelphia Code (“Amendments to Application”).

Additions to regulations are underlined

**TITLE 4. PHILADELPHIA BUILDING
CONSTRUCTION AND OCCUPANCY CODE**

SUB-CODE A – PHILADELPHIA ADMINISTRATIVE CODE

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CHAPTER 3

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A-301.7.1 Zoning and use registration permit amendments: Amendments to zoning and use registration permits shall be subject to the Code provisions in effect on the date the amendment application is filed.

* * *

Regulation:

EXHIBIT B

A-301.7(R)

1. Zoning and Use Registration Permit Amendments.

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- Decrease in gross floor area or building footprint.
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- Modification to legal signage.
- Removal of a use from a group of uses previously approved.
- Comparable changes that do not increase the intensity of the approved use.

b. Modifications impacting a specific variance or special exception are regulated under Section 14-303(16) of the Philadelphia Code and are not eligible for amendment.

c. A deviation in building height of 3' or less that complies with the maximum building height allowed by the Zoning Code and does not result in a change in the number of stories is permitted under original approval and does not require a permit amendment.

2. Construction Permit Amendments. Amendments to Construction Permit applications must: (a) apply to the same general area with respect to which work is to be performed under the original application; (b) be consistent with the approved use in connection with which the original application was sought; and (c) are subject to the following additional limitations:

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- A change in permit scope that exceeds the limitations of an EZ Permit Standard is not permissible when the permit was issued in accordance with an EZ Permit Standard.

An amendment may not result in a change in permit type.

EXHIBIT B

Members of the Committee:

I would respectfully suggest that the proposed regulations be revised, as follows:

Regulation:

A-301.7(R)

1. Zoning and Use Registration Permit Amendments.

a. Amendments to Zoning and Use Registration Permit applications must (.1)

address the same subject matter as addressed in the original application, such as height and area related to construction on a particular building, change related to a particular use or modification of a parking configuration; and (.2) *those applications received after January 1, 2023*, must constitute one of the following:

* * *

2. Construction Permit Amendments. Amendments to Construction Permit applications must: (a) apply to the same general area with respect to which work is to be performed under the original application; (b) be consistent with the approved use in connection with which the original application was sought; and (c) *those applications received after January 1, 2023*, are subject to the following additional limitations:

Thank you for your consideration,

Adam E. Laver

Blank Rome LLP

EXHIBIT C