

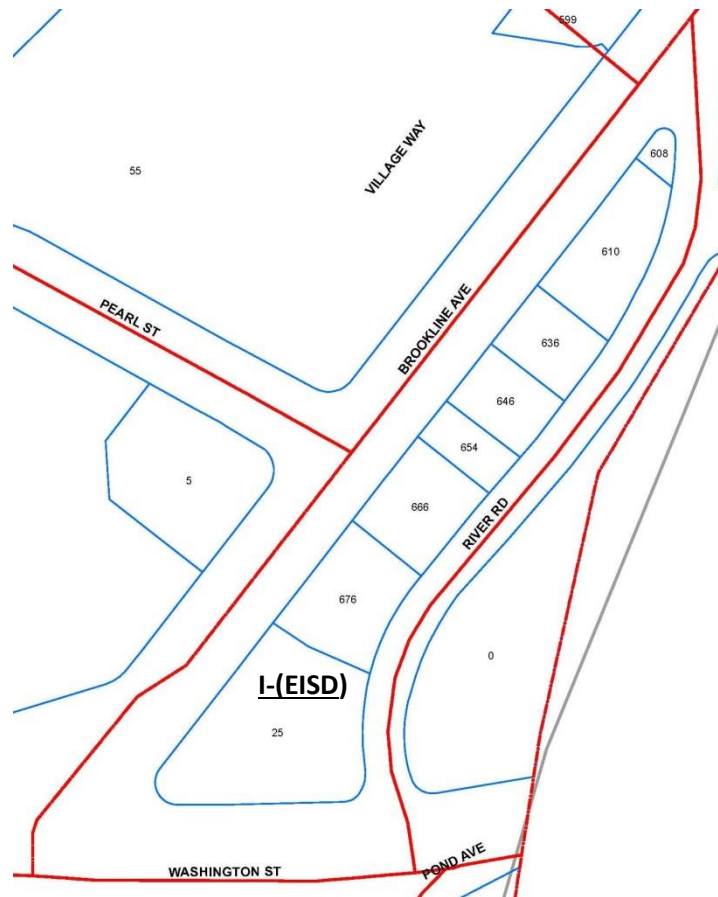
EMERALD ISLAND SPECIAL DISTRICT ZONING

Article XX

To see if the Town will amend the Zoning By-Law by amending the zoning district and corresponding sections of the Zoning By-law currently designated I-1.0 as shown on the current Zoning Map, as follows:

1. Amending the Zoning Map as shown to add a new I-(EISD) district as shown below.

(Changes in bold and underlined)



2. By amending Section 2.04.3 to add the following definitions

- a. "Dwelling, Live/Work Space: A building or any portion thereof containing common work space areas and/or dwelling units measuring no more than 900 square feet in gross floor area per unit that are used by at least one occupant as both their primary residence and primary work/artist studio space, including use 46 (Light Non-Nuisance Manufacturing) and 58A (Home Office) as certified annually by the property owner with the Building Commissioner."
- b. "Dwelling, Age Restricted: A building where all residents are 62 years of age or older. Such units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. Age and occupancy restrictions shall not preclude reasonable, time-limited

guest visitation rights or accommodation for caretakers for the primary resident. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole, by the owner of one or more dwelling units or by the Town of Brookline. In the event of a violation, and at the request of the Town, the owner of the unit shall comply with the age and occupancy restrictions.”

- c. “Dwelling, Micro Unit: A building or any portion thereof containing residential units measuring no greater than 500 square feet in gross floor area per unit. Buildings containing Micro Units may have flexible common areas for living and/or working.”

3. By amending Section 3.01.3a as follows:

(Changes in bold and underlined)

- a. 3. Industrial Districts
 - a. Industrial Services (I)
 - 1) I-1.0
 - 2) I-(EISD)**

4. By amending Section 4.07 – Table of Use Regulations as follows:

(Changes in bold and underlined)

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
RESIDENCE USES									
<u>6B. Dwelling, Live/Work Space</u> <u>*Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u>	No	No	No	No	No	No	No	No	No*
<u>6C. Dwelling, Age Restricted</u> <u>*Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u>	No	No	No	No	No	No	No	No	No*
<u>6D. Dwelling, Micro Unit</u> <u>*Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u>	No	No	No	No	No	No	No	No	No*
8. Hotel *Permitted by special permit in M-2.5 Districts and in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC, or T District. <u>**Permitted by special permit in I-(EISD) District in accordance with 5.06.4.j..</u>	No	No	No	No	No*	No	SP*	No	No**
8A. Limited Service Hotel *Permitted by Special permit in M-2.5, Cleveland Circle Hotel Overlay District <u>and I-(EISD) District.</u> **Permitted as of right only in the G-1.75 (LSH) Limited Service Hotel District, provided that the applicant for a building permit certifies to the Building Commissioner that (a) at least 20% of all on-site parking spaces will be available for overnight public parking at prevailing overnight public rates, (b) that all on-site parking spaces will be available between 8:00 a.m. and 6:00 p.m. at prevailing public meter rates and (c) at least 25% of the lot area is to be used for open space open to the public. Otherwise such use shall be by special permit in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC or T District. Permitted by Special Permit in G-(DP) District in accordance with Section 5.06.4.g.	No	No	No	No	No*	No*	Yes**	No	No*

INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES

18A. Small group health and fitness club not exceeding 2,500 square feet of gross floor area operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services.

No No No No No Yes Yes Yes Yes*

***Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.**

OFFICE USES

20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal.

*Verification of noise control shall include verification by a professional engineer (P.E.), utilizing an acoustical engineer under his/her supervision if necessary, that under worst-case (e.g., maximum number of animals, open windows if applicable) conditions neither daytime nor nighttime background noise levels, as defined in Article 8.15.3 of the Town By-Laws, will be exceeded at the boundary of the property where the use is located. Moreover, as a condition of a Special Permit, the ZBA shall require that further noise control measures be undertaken in the future if such background noise levels are exceeded during operation of the facility.

No No No No No SP* SP SP SP**

**** Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.**

21. Business, professional, or governmental office other than Use 20 and 20A.

No No No No No Yes Yes Yes* Yes**

*Provided no commodities are kept for sale on the premises

**** Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.**

RETAIL AND CONSUMER SERVICE USES

29. Store of less than 5,000 square feet of gross floor area per establishment, primarily serving the local retail business needs of the residents of the vicinity, including but not limited to grocer, baker, food store, package store; dry goods, variety, clothing; hardware, paint, household appliances; books, tobacco, flowers, drugs.

No No No No No Yes Yes No Yes*

***Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.**

<p>30. Eating places of less than 5,000 square feet of gross floor area per establishment, primarily serving local needs, including but not limited to lunch room, restaurant, cafeteria, place for the sale and consumption of beverages, ice cream and the like, primarily in enclosed structures with no dancing, nor entertainment other than music.</p> <p><u>*Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u></p>	No	No	No	No	No	Yes	Yes	No	Yes*
<p>32. Service business primarily serving local needs, including but not limited to the following uses:</p> <p>(a) Barber, beauty shop, laundry and dry-cleaning pickup agency, shoe repair, self-service laundry, or other similar use.</p> <p>(b) Hand laundry, dry-cleaning or tailoring, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any one time.</p> <p>(c) Printing shop, photographer's studio, caterer, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any one time.</p> <p>*Permitted by special permit in an M-1.0 (CAM) District.</p> <p><u>** Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u></p>	No	No	No	No	No*	Yes	Yes	No	Yes**
<p>33. Stores not exceeding 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, furniture and household goods.</p> <p><u>* Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u></p>	No	No	No	No	No	No	Yes	No	No*
<p>33A. Stores over 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, supermarket, grocery store, furniture and household goods.</p> <p><u>* Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u></p>	No	No	No	No	No	No	SP	No	SP*
<p>34. Place for the sale and consumption of food and beverages exceeding 5,000 square feet of gross floor area, or providing dancing and entertainment.</p> <p>*Permitted by Special Permit in the Cleveland Circle Hotel Overlay District.</p> <p><u>** Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.</u></p>	No	No	No	No	No	No*	Yes	No	Yes**

ACCESSORY USES

<p>46. Light non-nuisance manufacturing, provided that all resulting particulate matter, flashing light, fumes, gases, odors, liquid and/or solid wastes, smoke, and vapor are effectively confined to the premises or disposed of in a manner so as not to create a nuisance or hazard to safety or health and in compliance with all applicable town, state, and federal laws and regulations; further provided that no vibration is perceptible without instruments at a distance greater than 50 feet from such premises and that noise limits shall conform to the Town's Noise By-law. At least 30 days prior to the Board of Appeals hearing, the applicant shall submit studies by recognized experts to insure, to the satisfaction of the Board of Appeals, that the use will be designed and operated so as to conform to the standards above. Such studies shall include description of operations and processes proposed, materials to be used, above-and-below-ground storage facilities, and waste products. Any applications, including the required studies, shall be referred to the Conservation Commission and the Health Department for advisory reports in accordance with the procedures in §9.04.*</p> <p>*For uses 42 to 46 inclusive, all storage of materials and equipment and all business operations, such as loading, parking, and storage of commercial vehicles, shall be within an enclosed building. This requirement may be modified by the Board of Appeals by special permit only, provided the requirements of §6.04, paragraph 8. and §9.05 are met. Such special permit may be rescinded or modified by the Board of Appeals after notice and hearing if noncompliance with the conditions of approval is determined.</p> <p>** Permitted by Special Permit in the I-(EISD) District in accordance with 5.06.4.j.</p>	No	No	No	No	No	No	No	No	SP**
<p>58A. Office/studio within the place of residence provided all of the following conditions are met, except that only condition (e) below needs to be met in the G-(DP) and I-(EISD) Districts:</p> <p>(a) the office occupies not more than one room;</p> <p>(b) there are no nonresident employees;</p> <p>(c) there are no clients visiting the premises (members of the clergy shall be exempt from this limitation);</p> <p>(d) there are no signs nor other external evidence of the office; and</p> <p>(e) there is no production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.</p>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<p>66. Accessory laboratory.</p> <p>*In permitted institutions only.</p> <p>** Permitted by Special Permit in the I-(EISD) District in permitted institutions only and in accordance with 5.06.4.j.</p>	No	No	No	No	SP*	SP*	SP	SP	SP**

5. By amending Section 5.01 – Table of Dimensional Requirements by adding I-(EISD) and adding footnote 20 as follows:

(Changes in bold and underlined)

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI NB ONLY	LOT WIDTH MINIMUM (feet)	MAXIMUM HEIGHT	PBI		MINIMUM YARD			OPEN SPACE (% of gross floor area)	
							B	NB	Front	Side	Rear	Landsc.	Usable
I-1.0 & <u>I-(EISD)</u> ²⁰	Any structure or principal use (dwelling-footnote 5)	none ⁴	1.0 <u>1.0 or NA</u> ²⁰	NA	none	40 <u>or 110</u> ²⁰	NA	NA	20 ²⁰	NA	10+L/10 ²⁰	NA	NA

20. See Sections 4.07 and 5.06.4.j with respect to uses and all dimensional requirements.

6. By amending Section 5.06.4 to create Section 5.06.4.j “Emerald Island Special District” as follows:

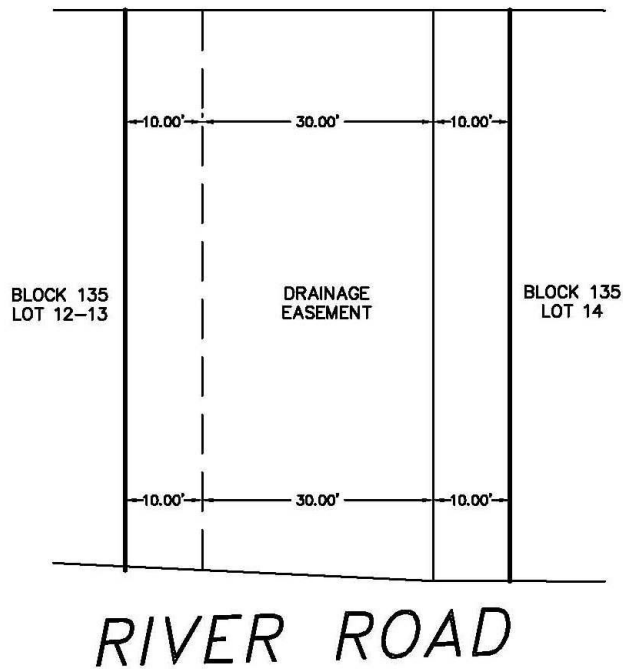
Emerald Island Special District I-(EISD)

1. The Emerald Island Special District – the area bounded by River Road, Brookline Avenue, and Washington Street – is an area in transition. It has been determined through study by the River Road Study Committee that specific zoning parameters are required to encourage appropriate redevelopment of this district. In developing these zoning parameters, due consideration has been given to the prominent location of this area as a major gateway to Brookline. The proximity of the Muddy River, Emerald Necklace, Longwood Medical Area as well as the differences in the scale of existing buildings, recently permitted and proposed developments, access to transit, and the solar orientation of sensitive nearby uses, including the residences of Village Way and Emerald Necklace Park all combined to shape the Special District parameters. Following a comprehensive study by financial, architecture, urban design and real estate experts, the Committee further concluded that the following concepts related to allowed uses, building heights, building form, parking requirements and the public realm are appropriate for this Special District.
2. All applications for new structures, outdoor uses, and exterior alterations in the Emerald Island Special District which exceed a floor area ratio of 1.0, a height greater than 40’ and/or seek alternative parking and loading zone requirements shall be permitted only on lots greater than 13,600 square feet in contiguous area and only for the uses described in Section 5.06.4.j.3, shall be subject to Site Plan Review by the Planning Board as described in Section 5.06.4.j.4, shall be subject to the requirements of Section 5.09, Design Review, shall obtain a special permit per Section 9.03, and shall meet the following requirements:

a. Setbacks and Sidewalk Widths:

- i. All buildings shall be setback 10 feet from the mid-district drainage easement as shown in Figure 5.06.4.j.1 below.

BROOKLINE AVE



LEGEND:

10' SET BACK LINE	———
EASEMENT LINE	- - - - -
PROPERTY LINE	=====

FIGURE 5.06.4.j.1 Setbacks from Mid-District Drainage Easement

- ii. All buildings shall be setback 45 feet from the Point of Intersecting Tangents of Brookline Avenue and River Road as shown in Figure 5.06.4.j.2 below.

BROOKLINE AVE

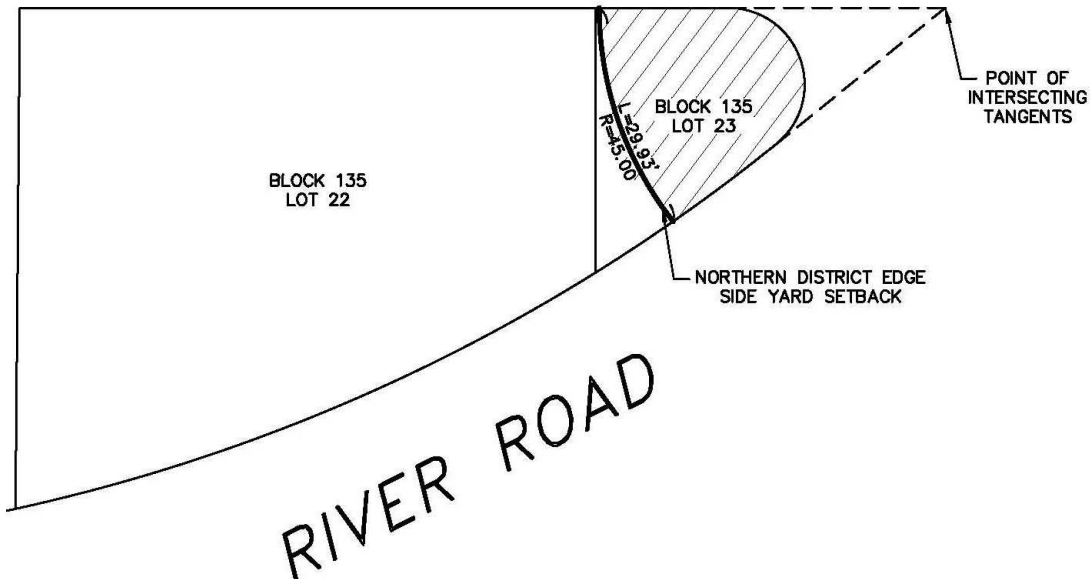


FIGURE 5.06.4.j.2 Northern District Edge Sideyard Setback

- iii. Notwithstanding Section 5.01 and other than as provided in Sections 5.06.4.j.2a.i and 5.06.4.j.2a.ii, there shall be no additional setback requirements except as is necessary to achieve the required sidewalk widths for the district. For the purposes of the EISD only, sidewalk shall be defined as the area between the building façade and the face of the curb. The required sidewalk width shall be measured from the ground level of the proposed building façade to the face of the curb at the time of special permit application. All sidewalks shall maintain a minimum 5 foot wide walkway clear from all obstructions, including, but not limited to tree pits, structural columns and street furniture. The minimum sidewalk width along Brookline Avenue and River Road shall be no less than 12 feet. The minimum sidewalk width along Washington Street shall be no less than 10 feet.
- iv. Where it can be demonstrated that achieving the required sidewalk width would be infeasible in limited areas, the Board of Appeals may by special permit reduce the required width of the affected areas to no less than 8 feet on Washington Street and River Road. No relief may be granted for a reduction in sidewalk width along Brookline Avenue. Applicants for a special permit to reduce the width of a sidewalk shall provide written and graphic

documentation to the Planning Board illustrating why the required width is not attainable in the affected area. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to reduce the width of the sidewalk in limited areas. Where relief is granted, applicants shall provide counterbalancing amenities in the form of wider sidewalks and/or landscaping on-site or in the immediate area adjacent to their site, subject to the review and approval of the Planning Board.

- b. The minimum finished floor to floor height for all ground floor levels shall be no less than 15 feet.
- c. No permanent on-site parking spaces shall be located on the ground level in the Special District.
- d. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. Applicants shall provide evidence to the satisfaction of the Building Commissioner and Director of Planning and Community Development that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy.
- e. Street trees shall be provided at regular intervals approximately every 25 feet along the sidewalks of Brookline Avenue, Washington Street and River Road. The size, location and species of all trees at the time of planting and the final design of all landscaping in the public way shall be approved by the Director of Parks and Open Space or his/her designee. In circumstances where trees cannot be provided as stipulated above as determined by the Director of Parks and Open Space or his/her designee, the applicant shall provide an equivalent amount of trees and/or landscaping at appropriate locations on the site or make a financial contribution to the Town in an equivalent dollar amount for similar improvements in adjacent parks and public spaces.
- f. The applicant shall devote no less than 1% of the hard construction cost of constructing its project, (including any building, site work, above ground or underground structures, but exclusive of tenant fit-up) to making off-site, streetscape and parks improvements within 500 feet of the Special District boundaries. In addition to review by the Planning Board, a plan of the proposed off-site improvements shall be submitted for the review and approval of the Director of Transportation and the Director of Parks and Open Space or their designees. Alternatively, with the approval of the Director of Transportation and the Director of Parks and Open Space, the applicant may make a financial contribution to the Town in an equivalent dollar amount to be used by the Town for such purposes.
- g. Public seating and pedestrian-scale lighting shall be provided at regular intervals. The location, number and design of all seating and lighting in the public way shall be approved by the Director of Parks and Open Space or his/her designee.
- h. Notwithstanding the provisions of Sections 6.06.6 and 6.07, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in Section 5.06.4.j.4 below.
- i. A building shall not have more than 30% of its frontage along a street devoted to residential use including associated lobby use.

- j. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential, or office, or hotel use without being considered an accessory use.

3. Exceptions to Maximum FAR and Maximum Height

- a. Additional height may be granted by special permit up to 85 feet for buildings primarily containing only the following uses: 6B (Dwelling, Live/Work Space); 6C (Dwelling, Age Restricted); 6D (Dwelling, Micro Unit) 8 (Hotel); 8A (Limited Service Hotel); 20 (Medical Office); 21 (Professional Office); 29 (Store less than 5,000 SF), 30 (Eating Place less than 5,000 SF); 33 (Stores not exceeding 10,000 SF); 33a (Stores over 10,000 SF); 34 (Place for the sale and consumption of food and beverages exceeding 5,000 SF); 66 (Accessory Laboratory), only for buildings located a minimum of 189.12 feet from the intersection of Washington Street and Brookline Avenue, provided that the footprint of any building mass above a height of 65 feet covers no more than 55% of the lot area. Buildings may also contain Principal Uses 18A (Small Group Health/Fitness), 20a (Licensed Veterinarian), and 32 (Service Business) provided that such uses occupy no more than 25% of the building. The required 189.12 foot distance from the intersection of Washington Street and Brookline Avenue shall be measured from the Point of Intersecting Tangents as show in Figure 5.06.4.j.3 below.

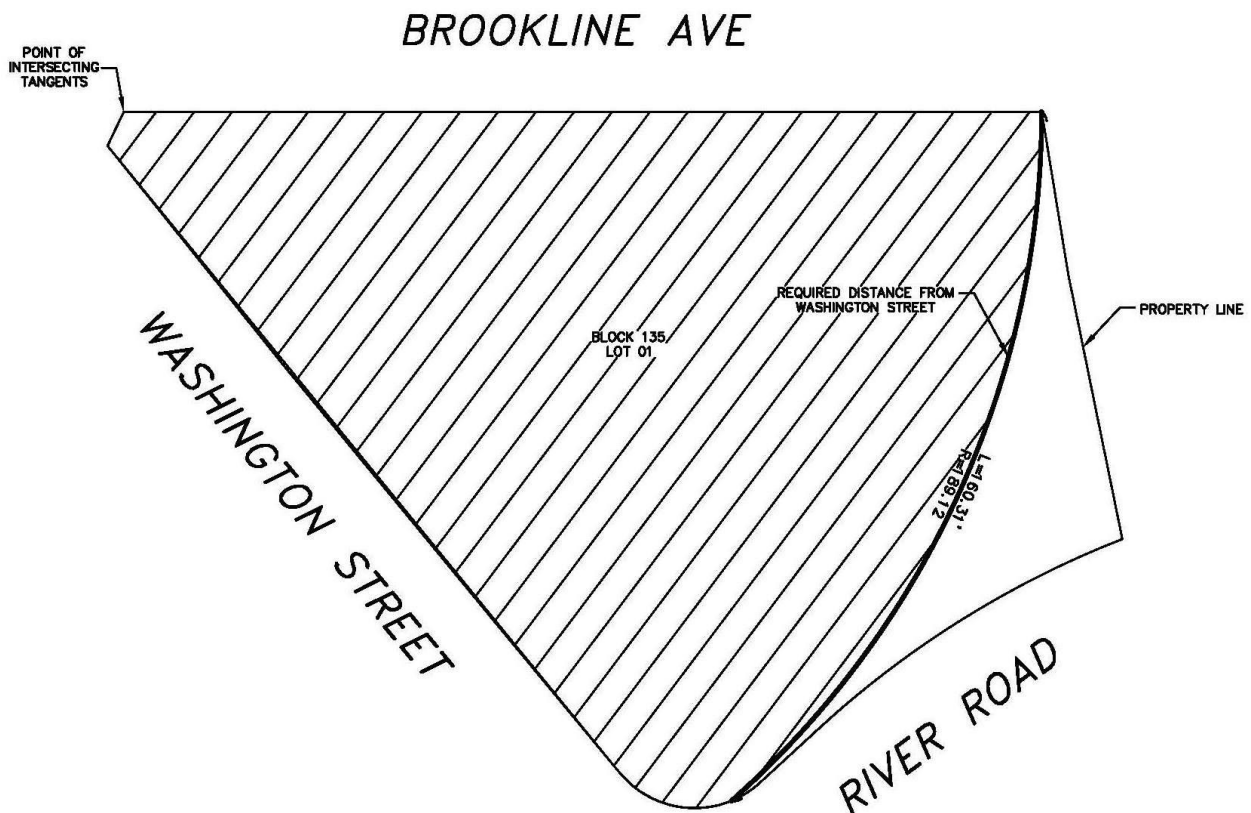


FIGURE 5.06.4.j.3 Required Distance from Washington Street

b. Additional height of up to 110 feet may be granted by special permit for buildings containing only the following uses: 8 (Hotel) and 8A (Limited Service Hotel) and only for buildings with frontage on Washington Street provided that the footprint of any building mass covers no more of the lot area than is specified in Table 5.06.4.j.1 and as depicted in Figure 5.06.4.j.4 below. Where an applicant can demonstrate that additional lot coverage for any building mass above 35 feet would result in an improved building design, the Board of Appeals may by special permit grant an increase in the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. Applicants for a special permit to increase the maximum percentage of lot coverage shall provide written and graphic documentation to the Planning Board and Design Advisory Team illustrating how the building design has improved. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. The Design Advisory Team shall provide a similar affirmative written recommendation.

Building Mass Heights	Maximum % Lot Area Coverage	Maximum % Lot Area Coverage By Special Permit with Planning Board Recommendation
0 up to 15'	80%	N/A
15' up to 35'	92%	N/A
35' up to 50'	80%	85%
50' up to 75'	75%	80%
75' up to 110'	50%	55%

Table 5.06.4.j.1 - Maximum % Lot Area Coverage By Building Height

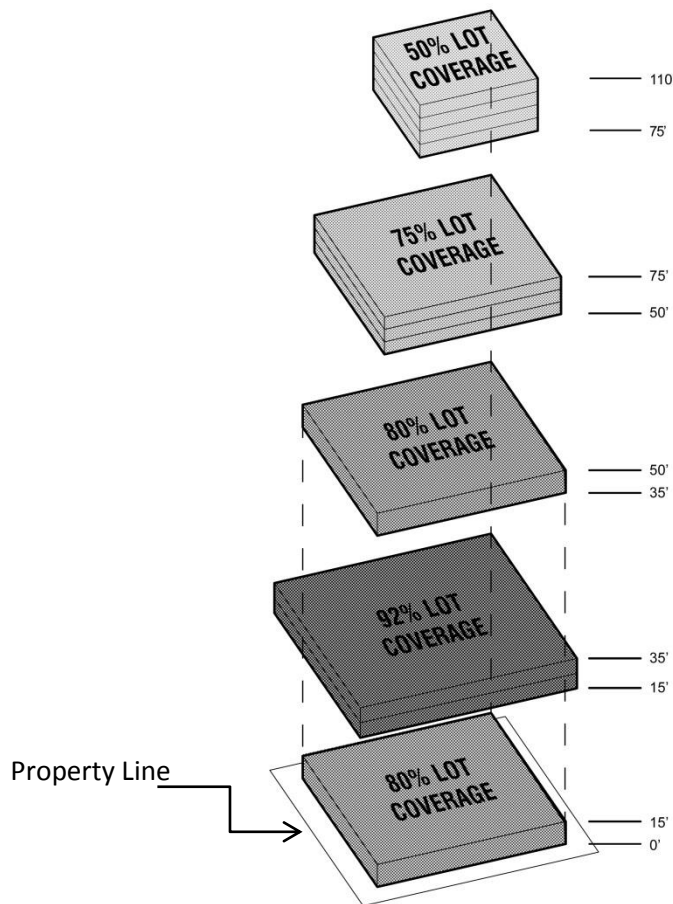


FIGURE 5.06.4.j.4 Maximum % Lot Coverage by Building Height

4. Site Plan Review

- a. All applications for new structures shall be subject to site plan review by the Planning Board to: ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

- i. Property lines and physical features, including roads, driveways, loading areas and trash storage for the project site;
- ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting and exterior lighting.

5. Parking and Vehicular Requirements:

- a. Notwithstanding Section 6.02, there shall be no minimum parking requirements for the following uses and such uses shall have the maximum parking limits noted in Table 5.06.4.j.2 below.

USE	MAXIMUM PARKING
Principal Use 6B (Dwelling, age restricted)	1.25 per unit
Principal Use 6C (Live/Work space)	0.50 per unit
Principal Use 6D (Dwelling, Micro Unit)	0.50 per unit
Principal Use 8 (Hotel) and 8a (Limited Service Hotel)	0.40 per room
Principal Uses: 18A (Small group health/fitness); 20 (medical office); 20a (Licensed veterinarian); 21 (professional office); 29 (store less than 5,000K SF); 30 (Eating places less than 5,000K SF); 32 (Service use business); 33 (Stores not exceeding 10,000K SF); 33a (Stores over 10,000K SF); 34 (Place for sale and consumption of food not exceeding 5,000K SF); 66A (Accessory Laboratory)	1.50 per 1,000 SF

Table 5.06.4.j.2 – Maximum Parking Limits

- b. Notwithstanding the above, where it can be demonstrated that additional parking is needed, the Board of Appeals may by special permit increase the maximum parking ratio by no more than 20%. Applicants for a special permit to increase the maximum parking ratio shall provide written documentation to the Planning Board demonstrating the need for additional parking. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum parking ratio by no more than 20%.
- c. Notwithstanding the above, dedicated spaces for Car Sharing Organizations (CSO) may be provided without regard to such maximum parking limits. If such dedicated parking spaces are not leased by any CSO they shall be dedicated to bicycle parking and appropriate bicycle parking hardware shall be provided.

6. Design Standards:

- a. Building façades parallel to or within 45 degrees of parallel to any property line shall be designed and constructed with equal care and quality. Visual articulation shall be achieved for each façade by (a) employing variations in materials and/or ensuring that no portion of any such façade is coplanar or unbroken for more than 3,500 square feet without a change in depth of 2 feet or more, or (b) utilizing alternative methods of vertical or horizontal articulation, or (c) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for the reasons expressed in such written determination. The Planning Board and the Board of Appeals shall provide a similar written determination and reasons with respect to façade design. During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Emerald Island Special District Design Guidelines developed by the River Road Study Committee for guidance on general exterior massing, scale and design.

- b. In order to minimize visual and audible impacts, all rooftop mechanical equipment shall be insulated and screened to the greatest extent possible from all public ways via substantial screening materials and/or shall be located in the interior of the building. Additionally, all rooftop mechanical equipment shall be located such that all shadow impacts are minimized.

7. Amend Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements by adding a Footnote as follows:

- 2. For the I-(EISD) Special District, parking requirements shall be the same as those districts with a maximum floor area ratio of 1.0, except as otherwise provided for in Section 5.06.4.j.

or act upon anything else relative thereto