UPDATING THE OUTDATED BOSTON ZONING CODE

by

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B.S., Urban Planning
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ABSTRACT

The author examined the Boston Zoning Code. The examination determined specific problems with the Code causing building permit processing delays. The author also reviewed the Boston Redevelopment Authority's current efforts to redraft the Code. The review determined if the Authority was focusing on the Code's problems. Methods of research included a review of zoning literature, a review of the Zoning Code's history and the Authority's current redrafting process, an analysis of 1,666 current zoning variance requests, and personal interviews.

The Zoning Code's historical development was examined comparing the regulatory device's original purpose to Boston's current land use needs. Zoning variance cases were analyzed determining specific Zoning Code sections that land owners repeatedly challenge. The Authority's current redrafting efforts were discussed in light of the Zoning Code's original purpose and problems revealed through the variance cases analysis.

Issues surface regarding the Zoning Code and the Authority's current redrafting efforts. The current Zoning Code is based on an outdated city plan no longer envisioned by the Boston community. Specific zoning regulations are designed to implement the outdated city plan and currently are unrepresentative of Boston's physical environment. The current redrafting process is strong focusing on neighborhood level interests but weak representing city-wide land use needs. The redrafting process is not working to rezone the entire city. The Authority also lacks a complete process that will lead to a permanent city-wide zoning ordinance.

Recommendations state where the Authority should focus its redrafting efforts. The Authority should develop a complete city-wide rezoning process. Boston needs a land use plan. The Zoning Code needs newly formulated dimensional regulations that the current redrafting process is not providing. The Authority should administer the application of the new Zoning Code working with neighborhood interests.
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My next challenge? Cleveland
INTRODUCTION:
The Boston Zoning Problem

An April 16, 1986 Boston Globe article reports that 45 East Boston community leaders demonstrated at the Boston Redevelopment Authority (BRA) offices demanding the BRA act on its promise to create new zoning regulations for the neighborhood. "The issue is uncontrolled development" said Mary Ellen Welch, a member of the East Boston Land Use Council (Boston Globe 4/16/86).

A February 26, 1987 Boston Globe article refers to several proposed Boston Zoning Code (Zoning Code) changes for the South End neighborhood "designed to lessen the neighborhood's parking problems, limit condominium conversions, create more public open space and reduce the size of future housing developments" (Boston Globe 2/26/87). The article summarizes the South End Density Impact Study completed by Thomas Planning Services, Inc. While the density study and Zoning Code changes are enthusiastically supported by some neighborhood representatives and BRA Director Stephen Coyle, other neighborhood groups claim the recommendations will have little impact controlling development pressure throughout the South End.

A March 24, 1987 The Tab article notes that several business associations are discontent, while other neighborhood groups are pleased, with the BRA's proposed permanent zoning rules for the Boylston Street neighborhood. The zoning changes are supposed to preserve the existing street character and discourage large scale
commercial development. The groups opposed to the rezoning claim "they are not necessarily opposed to the content of the zoning amendments, but rather need time to study exactly what will be passed" (The Tab 3/24/87).

The BRA's Zoning Code revision efforts are in the news, controversial, and when completed, will be a key device guiding Boston's future development.

The Zoning Code is news because the booming Boston real estate market is constrained by current zoning regulations. Zoning, in its simplest form, divides a community into districts or zones so as to control two development issues: the specific land uses and the physical dimensions of those uses (Roeseler and McClendon 1986). According to Richard F. Babcock, author of The Zoning Game, real estate entrepreneurs are commonly considered one of two forces which shape zoning. Within the Boston market, real estate interests pressure Zoning Code change because of their desire to capitalize on a healthy real estate market and maximize economic returns beyond what the zoning allows.

The second force, public planners, also shape zoning. While real estate interests desire to maximize property values, planners want to accomplish "social and political objectives" as well (Babcock 1966). The Planners' viewpoint is more comprehensive than land owners exemplified by planners typically grounding zoning to an adopted community plan. Planners intend to implement a plan reflecting a "planner's vision" rather than capitalize on the cyclical real estate markets.
In theory, once a community land use plan is adopted, planners develop a zoning regulation that guides future land uses to conform to the land use plan. In conjunction with the community land use plan, zoning is a powerful planning regulation that helps implement a community vision into reality.

While responsible for creating the zoning code, planners cannot be unresponsive to market interests. In Boston, the market and planning interests need coordinating to create a new Zoning Code. Since the current Zoning Code was written, the Boston real estate market has drastically changed. The planning interests have reacted slowly. Market interests have responded by utilizing the zoning appeal process to circumvent the Zoning Code and meet market demand. Zoning variances, permission to deviate from the application of specific code requirements because of unusual hardship singular to the property owner, are a key indicator of disjuncture between market and planning forces. Variances mediate between the market and planning forces but when they occur in large numbers are inefficient because the zoning Board of Appeal (Board) must review each case individually causing long development delays.

At present, many consider the current Zoning Code to be outdated. City planners, land owners, and neighborhood activists are rethinking the relationship between the market and planning forces and want to rewrite the Zoning Code. The challenge is not just to create a conduit for land owners, but, for Boston city planners to find some synthesis between the planning and market
forces and to allow market interests to operate without undue compromise of planning objectives.

The BRA is responsible for reviewing zoning variance and conditional use requests for the Board, proposing Zoning Code amendments to The Zoning Commission (Commission), and creating the city general plan for redevelopment. BRA planners are currently overwhelmed with zoning variance requests. Planners view the number of variance applications as an "indication of the success or failure of a zoning code" (Boston Redevelopment Authority 1987). Generally, the fewer the variance applications the greater the Zoning Code's success.

The BRA is not the only organization which considers the Zoning Code outdated. Neighborhood groups frequently complain that current neighborhood zoning does not meet their goals, allowing land uses the community does not want while prohibiting many desirable uses. Developers and home owners are dissatisfied because they must repeatedly request zoning variances which cost time and money. The Board, the body that ultimately approves or denies variances and conditional use requests, has too large a case load to thoroughly review each case. A March 1965 Procedures of the New Zoning Code estimates that the Board should expect to review between 150-400 appeals a year. 400 cases was chosen as an upper limit because "it is doubtful whether the Board of Appeal could hear more than 400 zoning cases per year" (Boston Redevelopment Authority 1965). The Board heard roughly 600 cases in 1985 and approximately 900 cases in 1986, more than
Figure 1

The Boston Redevelopment Authority's Role in Zoning


twice the projected maximum case load.

Responding to residential and commercial market pressure, the BRA plans to rewrite the Zoning Code, a process which is expected to take years. Boston's economic boom, however, places tremendous pressure on the BRA to resolve zoning issues within the next two years. The result thus far has been piecemeal attempts to quickly rezone areas experiencing tremendous development pressure, such as the South End neighborhood and Boylston Street. In other parts of the city, the BRA is working with neighborhood representatives
setting up interim land use guidelines, tailored to each neighborhood's needs. While the BRA has made incremental zoning changes, the BRA has not completed a work program outlining how a comprehensive new Zoning Code would be written, evaluated and adopted.

The BRA is the agency responsible for developing a city-wide general plan and Zoning Code and its challenge is to be responsive to neighborhood interests and plan for the city as a whole. Until the BRA adopts a work program for rewriting the Zoning Code, changes are likely driven by piecemeal market pressures that lack a city-wide perspective. If the BRA can not determine how to systematically apply its efforts, neighborhood and development interests are likely to dictate the land use planning and code rewriting process. The BRA needs a strategy for writing one comprehensive city-wide Zoning Code even if the proposed changes continue to come from a grass roots level.

This thesis is an examination of the extent and reasons for the disjuncture between the Boston planning forces and the Boston market forces for zoning, and a study of how to reestablish some equilibrium between the two.

The purpose of this study is to identify which specific sections of the Zoning Code are outdated and why, and recommend where the BRA should focus its rewriting efforts. Neighborhood groups and developers may know what land uses they desire in their neighborhood, but the BRA must provide the zoning framework that will implement community land use plans coordinated with the BRA's overall Boston vision.
This thesis has two primary approaches to the issue of rewriting. First, I will examine the process that led to the existing zoning regulations. Understanding the intentions of the Zoning Code creators will provide valuable insight into the mismatch between current and past market interests. Secondly, I will develop and apply a methodology for systematically reviewing Boston zoning variance cases. This methodology will define which Zoning Code sections are interrelated and outdated according to current land use needs. Because variance cases reflect how property owners desire to utilize their property in ways the current Zoning Code does not allow, I will use the pattern of variances to determine where land owners are pressuring for zoning reform. The variance cases will also identify the specific Zoning Code sections to which the Board consistently grants relief, indicating land uses the Zoning Code prohibits that planners now consider acceptable.

This thesis consists of six sections. Following the introduction, section two is a literature review that identifies zoning rationales and theories. The third section traces the current Zoning Code's history, and current city-wide Zoning Code revision efforts. The fourth section is a detailed examination of zoning variance applications and what variances reveal about market and Zoning Code discrepancies. The fifth section summarizes why the current Zoning Code is outdated and why current BRA rewriting process is unproductive. The sixth, and concluding, section outlines a Zoning Code rewriting process for the BRA, with emphasis on where initial rewriting efforts should be focused.
LITERATURE REVIEW:
The Theoretical and Boston Zoning Process

To better understand the Zoning Code's problems, a basic understanding of zoning's purpose and limitations is needed. The following is an explanation of zoning, its relationship to planning, its benefits and liabilities, and how land owners can circumvent zoning.

General Description:

Compared to the age of our cities, zoning is a recent phenomenon. New York City planners developed the first zoning code in the United States seventy years ago. They were concerned with regulating the quality of Manhattan's urban environment. Goals for the first code were simple.

"Through height and setback controls, zoning would ensure sufficient light and air at street level so that cities would not be dark, dreary canyons. Use controls would prevent incompatible uses so that residential neighborhoods would be protected from factories" (Haar and Kayden 1986).

Since its origin, zoning has strived to control two development aspects: land uses and the physical dimensions of those uses.

Sixty years ago the United States Supreme Court decision, Village of Euclid v. Ambler Realty Company, further encouraged localized use of zoning by upholding the constitutionality of zoning as a valid exercise of public sector police power. Approximately the same time as the Supreme Court ruling, "the U.S. Department of Commerce released the revised edition of the Standard State Zoning Enabling Act, which has been adopted with
variations ranging from minor to major by most states" (Bair 1979). Each state, in turn, grants the authority for each community to zone itself (Smith 1965). In Massachusetts, Boston's power to zone comes from legislation Chapter 665 of the Acts of 1956 "authorizing the City of Boston to limit buildings according to their use or construction to specified districts" (Boston Redevelopment Authority 1963). The typical zoning ordinance contains the following technical elements: zoning ordinance text, zoning map, schedule of dimensional requirements, graphic illustration of requirements.

Zoning is the legal exercise of public sector authority to regulate land uses so as to promote the health, morals, and general welfare of the community. Zoning represents a balance of public and private interests, a middle ground accommodating many interests: developers, residents, public officials, regional needs. As a middle ground, zoning can not be stagnant. As real estate developers adapt to market demand, the zoning must respond. Zoning must also change as the community vision changes. Thus, zoning should not merely serve land owners' needs, but, should reconcile property owner and planning needs in a way that allows the real estate market to operate within the limits of community objectives.

"The distinguishing characteristic of zoning is the division of jurisdictional areas into zoning districts or zones with uniform regulation throughout each district, but with differing regulations for different types of zones. The control [over the land use and structure placed on each and every parcel] is exercised through the specification of minimum or maximum limits, as appropriate, on lot size; on size and height and placement of structures;
The purpose of controlling individual parcels is an attempt to comprehensively maintain and/or develop a vision of neighborhood which regulating the physical building arrangement has social implications. Each zoning district reflects the different neighborhoods' physical arrangements which also reflect varying social arrangements.

**Purpose of Zoning:**

The legal rationale for zoning is to aid the public sector in its task of promoting the health, morals, and general welfare of the community. More specific purposes include lessening street congestion, securing safety from fire, panic, and other dangers, providing adequate light and air, preventing overcrowding of land and buildings, or avoiding undue concentration of population (Smith 1965). These types of purposes are commonly stated in each community's zoning code statement of objectives.

The Massachusetts Enabling Act states "the regulations are to give...a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality" (Bair 1979).

As previously stated, Richard F. Babcock, author of The Zoning Game, posits two theories for determining zoning: a property value theory and a planning theory (Babcock 1969).

The property value theory states that zoning is a means of
maximizing the value of property. Thus, market forces are the determining factor for what is the "proper" zoning for a community. The only limit on each property achieving its maximum value is that no property should cause a corresponding decrease in the value of other property. The property value theory excludes planners intervention in the zoning process. Planners are viewed as "meddlers" who upset the natural balance between supply and demand with their tinkering (Babcock 1969).

The planning theory assumes zoning as a method of implementing a comprehensive plan, and a zoning ordinance must be based upon a plan. The primary issue becomes, what is a plan? Babcock relies on Hugh Pomeroy's (former Planning Director of Westchester County, New York) notion of a plan; a plan makes provision for all uses that the legislative body of the community decides are appropriate, determines the location of the uses, and specifies the intensity of use of appropriate land uses. The planning theory places pressure on planners to create a rational plan which is not arbitrary or irresponsible because the zoning will be equally as unreasonable (Babcock 1969).

Relation to Planning:

Good zoning is "the effectuating tool of good planning and [that] a comprehensive plan should precede the zoning map and ordinance." Zoning, however, "cannot do planning" and "zoning should not attempt to do planning" (Smith 1965).

"In a comprehensive plan, land is allocated to various major types of land uses based on the functional relationship among urban activities. The plan delineates broad categories of uses. A zoning
ordinance using the plan as an organizing concept arranges specific land uses in groups and seeks to define those groups as precisely as possible to avoid ambiguity in interpretation" (Roseseler and McClendon 1986).

The purpose of zoning in relation to planning is to be "the transition between the present and the future and should assure that this transition occurs in the most orderly and economic manner possible" (Smith 1965).

Zoning is a slow method of dealing with land use problems. "Practical planning, like zoning, begins with what is and works forward. And unless there is wholesale clearance and redevelopment or other massive governmental action, the change is likely to be slow" (Bair 1979). Despite slow change, "even the most built-up community needs a zoning ordinance. Communities change regardless of how built-up they are or regardless of their age" (Smith 1965, 27).

A preliminary step to drafting a zoning code is creating a map showing existing land uses. A land use map helps planners decide the varieties of housing and commercial uses that do and should characterize the community. Determining the various types of character desired within a community aids in establishing zoning districts. Ultimately, the zoning districts should reflect the different characteristics within a community and should serve to enhance those distinctions. A particular public purpose is to "provide opportunities for sound private development," not to control community problems. Thus, the zoning code should be coordinated with local health, building,
occupancy codes, and licensing procedures and jointly compatible with the private development market (Bair 1979).

Problems:

A report prepared by the American Society of Planning Officials for the National Commission on Urban Problems reached a number of conclusions regarding problems with zoning. The planners conclude that "zoning has never been able to carry out a comprehensive plan" (The American Society of Planning Officials 1968). Failure related to comprehensive planning is a startling conclusion since the primary function of the zoning regulation is to implement comprehensive plans. The planners also note that "zoning and subdivision regulations are used primarily to correct the fiscal problems of local government and not to guide expansion in an efficient pattern (This is called fiscal zoning)" (The American Society of Planning Officials 1968). Fiscal zoning points toward the political realities of zoning facing planners and the constant tension between "long term" oriented planners and "short term" minded political leaders. Fiscal planning also makes clear that political leaders are caught between the market and planning models and frequently favor the market model because of short term political gains.

Benefits:

Despite problems, communities with zoning are much better off than if zoning and subdivision regulations are not used. A primary example is Houston, Texas, the only major United States city without a city-wide zoning regulation. Houston is
overwhelmed with "undersized lots, alley buildings, over building
on residential lots, indiscriminate mix of [land] uses, 
proliferation of signs and billboards" (The American Society of 
Planning Officials 1968). Houston planners have no comprehensive 
regulatory device to prevent such planning problems from
remaining and spreading.

Because cities have historically experienced problems 
similar to Houston, land use standards are implemented through 
zoning. Zoning is commonly used, and lawfully, for establishing 
minimum floor areas and lot areas as a method of promoting the 
public welfare (Bair 1979).

The institutional mechanisms carrying out zoning vary with 
each community. In Boston, the BRA is a key actor in the zoning 
system working with the public, the City of Boston Inspectional 
Services (Building) Department, Zoning Commission (Commission), 
and zoning Board of Appeal (Board). The BRA makes no final 
rulings regarding zoning issues. The BRA researches zoning 
issues and makes recommendations to the Commission regarding 
Zoning Code text and map amendments and to the Board regarding 
variances and/or conditional use permits. The Commission and 
Board make final decisions upon receiving BRA recommendations. 
The eleven member Commission and five member Board are appointed 
by the Mayor. Otherwise, elected public officials have no direct 
link to the zoning process except attending public hearings 
through which decisions are made by the Commission and Board 
(Boston Redevelopment Authority 1986). Figure 2 shows the 
relationship among the actors of the Boston zoning process.
The zoning regulating each parcel can be circumvented two ways. If a land owner feels the property is inappropriately classified, the land owner can petition the Commission to rezone the parcels with an adjustment to the official city zoning map. The land owner must demonstrate to the Commission that the current zoning classification is inappropriate compared to a community purpose. Commissions guard against "spot zoning:" a "zoning amendment that deals with a particular piece of property or a small group of adjoining properties [that] is not in
furtherance of the comprehensive plan of the community" (Geller 1983).

Land owners can also circumvent the existing zoning by petitioning the Board for a variance. A variance does not change the existing zoning, but, allows the land owner to use the property in a way the current zoning does not allow. Land owners can seek a variance for a use the zoning code does not allow, or, to maintain a structure that does not meet the dimensional requirements spelled out in the zoning code.

The Board plays a critical role in upholding the validity of the ordinance. The Board usually has the final say over code interpretations and variance hardship review. Except in the case of an appeal to the courts of the state, a zoning board establishes whether or not the zoning code is working towards a consistent public purpose. If variances are indiscriminately granted without specific justification, variances can destroy a zoning ordinance. Without the Board establishing justifiable grounds for granting variances, planners can not determine if the zoning code is a success or failure in meeting a public purpose. Variances, therefore, should be reserved for situations that are "peculiar and unusual circumstances pertaining to the particular case and whether the denial of the application would result in a hardship upon" the permit seeker (Smith 1965).

**Code Effectiveness:**

Once a zoning ordinance is adopted, what are the mechanisms for comprehensively modifying it? How does one know whether it is a successful code? As the BRA states in the February 23, 1987
version of the new downtown zoning plan,

"one indication of the success or failure of a zoning code is the number of variance applications filed each year...[Variances] are granted if the applicant shows that strict enforcement of the Zoning Code, as it applies to a specific lot, would result in undue hardship to the applicant. The larger the number of variance applications, the more likely the code is not working, since people are trying to circumvent it through the variance process" (Boston Redevelopment Authority 1987).

A key to understanding how variances determine success or failure is reviewing the decisions by the Board. If large numbers of variance requests occur within a community compared to previous years, or compared to communities of similar characteristics, yet the Board denies most of the variance requests, the zoning code may still be a success. Board denials reflect the zoning code is successfully working as a community watchdog, holding up projects that planners do not desire to see developed, and allowing the Board to confirm these particular projects are not acceptable within the community. When the Board consistently denies variance requests, land owners demands for zoning change do not justify altering the long term oriented planning model. Conversely, if the Board approves large numbers of variance requests, the zoning code may be a failure. Board approvals signal that the zoning code is prohibiting projects that the Board determines warrant development. Board approvals of variance requests reveal a growing need for zoning code revision. Consistent Board approvals supports the contention that the planning and market models are disjointed and the planning model needs changes enabling the two models to work together towards implementing a land use plan.
The Boston Zoning Code:
The History of The Boston Zoning Code and Current Rewriting Efforts

Declared a "living dinosaur," the current Boston Zoning Code is battered, abused, and maligned both by those that enforce and are regulated by the ordinance. The BRA is plunging into the process of redrafting the Zoning Code because of neighborhood pressure, developer complaints, and a zoning Board of Appeal (Board) that is swamped with variance requests. A review of the Zoning Code's origin will provide much insight as to why the current planning zoning model is causing so much complaint.

The image of the city, i.e. the planning model, behind the Zoning Code was designed for a radically different city than that currently confronted by the ordinance. In fact, the Zoning Code presently works as 1950's planners envisioned, a device encouraging high rise development complete with open space and off-street parking while discouraging rehabilitating antiquated structures and constructing new high density developments. The problem is that the planner's city which the code was to help promote is at odds with the world of the real estate market of 1987.

The History Of Boston's Current Zoning Code:

The current Zoning Code's origin lies in the 1950 General Plan for Boston. Under the guidance of Mayor John B. Hynes and City Planning Board Chairman Thomas F. McDonough the plan acknowledged Boston's decentralization as a city, and, emergence
as a metropolitan center. The plan called for clearance and redevelopment of slum neighborhoods, preservation of more stable neighborhoods, and a refinement of locations used for business and industry, residences, schools and recreation, and transportation. Of key importance, throughout the 1950 General Plan for Boston, planners called for a new Zoning Code as the basic device for carrying out the plan (Boston City Planning Board 1950).

In December 1953, Chairman McDonough presented the Zoning Policies for Boston to Mayor Hynes. The Zoning Policies for Boston and Zoning Policies for Boston Technical Supplement were preliminary reports on the Boston rezoning studies. The documents showed the public what the Planning Board was thinking regarding initial efforts to implement a broad scale rezoning. The documents outlined broad zoning policies but did not offer final solutions (Boston City Planning Board December 1953).

The Planning Board's vision of Boston's future was clear. As Figure 3 shows, Boston planners desired to replace high factory buildings on small sites with one-story plants and ample on site parking and loading, to replace congested downtown offices and stores entangled in traffic with orderly redevelopment that separated vehicular and pedestrian traffic, to replace elevators and walk-up apartments characterized with inadequate space for modern standards of play-space and off-street parking with buildings offering more usable open space,
Figure 3

The 1953 Boston Planning Board's Vision of Ideal Building Types

<table>
<thead>
<tr>
<th>1924</th>
<th>1954</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FACTORIES &amp; WAREHOUSES</strong></td>
<td></td>
</tr>
<tr>
<td>High buildings on small sites</td>
<td>One-story plants on sites ample for parking and loading</td>
</tr>
<tr>
<td><strong>OFFICES &amp; DOWNTOWN STORES</strong></td>
<td></td>
</tr>
<tr>
<td>Congested buildings entangled in traffic</td>
<td>Orderly redevelopment, separation of trucks, cars, shoppers</td>
</tr>
<tr>
<td><strong>LOCAL SHOPPING CENTERS</strong></td>
<td></td>
</tr>
<tr>
<td>Many, small stores; ribbon or four-corner formation, traffic interference</td>
<td>Larger stores with site room for loading, customer parking, growth</td>
</tr>
<tr>
<td><strong>ELEVATORS &amp; WALK-UP APARTMENTS</strong></td>
<td></td>
</tr>
<tr>
<td>Inadequate space for modern standards of play-space and off-street parking</td>
<td>More usable open space, off-street parking, flexible design</td>
</tr>
<tr>
<td><strong>TRAFFIC &amp; DRIVER FACILITIES</strong></td>
<td></td>
</tr>
<tr>
<td>PROPORTION USING MASS TRANSIT vs CAR or TRUCK to DOWNTOWN BOSTON, 1927-50</td>
<td></td>
</tr>
<tr>
<td>Boston's passenger cars, 1930-1950</td>
<td>Better space provisions and access controls needed for roadside services: gas, motels, restaurants, theatres and shopping centers.</td>
</tr>
</tbody>
</table>

**THIRTY YEARS OF CHANGE**

Boston City Planning Board, Zoning Policies For Boston, Boston: December 1953, IV.
off-street parking and flexible designs. Examples of the Planning Board's vision executed in practice are the new West End, the South End New York Streets project, and Bay Towers in South Boston.

The Planning Board's policies documents pointed out that since the 1924 zoning standards were established, many parts of the city had completely changed in character.

"New methods of building design and construction, and new practices in building economics had made obsolete the 1924 standards - for heights of buildings, density, spacing...changes in the average household size of family and other social changes have outdated large residential areas, and the zoning that now regulates them" (Boston City Planning Board December 1953).

Boston planners had a vision for Boston as a city geared to the social and economic realities of the second half of the twentieth century. That vision involved new construction as the means to a healthy future. The planners felt that "one of the most critical needs is the attraction of new buildings and investment capital to bolster the sagging tax base and support an adequate level of municipal services and facilities." The zoning policies were clearly painted across the cover of the documents: PROMOTE new construction, PROTECT good development, CORRECT deficiencies, and ADAPT to needs of future" (Boston City Planning Board December 1953). The documents mentioned no concern for rehabilitating existing structures.

Boston planners had done much research before evolving their redevelopment plan. As the Zoning Polices For Boston Technical Supplement demonstrated, planners studied the types of development projects within Boston and outlying areas. The study
concluded that the only significant construction throughout the region was new low rise low density developments containing less floor area and larger amounts of open space that the 1924 Zoning Code required. These findings came at a time when Boston planners were eager to change Boston's image. Planners must have felt pressure for planning reform when planners such as Robert A. Futterman were publishing books stating conclusions like "yet despite the charm of the place I know no more hopeless downtown than Boston's" (Futterman 1961). The planners, therefore, sought to replace old buildings unable to conform to modern building and density standards and characteristic of an antiquated Boston with new structures that were most commonly built at that time. The planners thought a new Zoning Code could coordinate their planning model with the market forces in an effort to increase development activity and rid Boston of substandard conditions.

Boston planners noted that Boston was a typical example of a densely developed city that was changing. Even though Boston was mostly built-up, planners estimated

"over the next 20 years as much as a billion dollars of new construction or alterations may be at stake. Made up of both new building and replacement...The kind of zoning Boston has in force, therefore, during this coming quarter-century, will have a great deal to do with the form and life of the city, and may also strongly influence the volume of construction activity itself" (Boston City Planning Board December 1953).

Boston planners saw future development in four forms: 1) approximately 4,000 acres of construction on vacant land involving 18,000 new dwelling units and 15 million square feet of non-residential space, 2) another 3,000 acres of redevelopment of
blighted areas through clearance resulting in 50,000 dwelling units and 11 million square feet of non-residential space, 3) replacement of obsolete structures outside the redevelopment areas on a piecemeal basis involving 30,000 dwelling units and 80 million square feet of non-residential space, and 4) alterations and conversions for some remaining structures. No estimate was provided regarding how many dwelling units or square footage of non-residential space could be preserved through alterations and conversions (Boston City Planning Board December 1953).

Convinced that new construction was Boston's future, Boston planners felt comfortable enough to create a new Zoning Code and map and expected to complete both by the end of 1954.

"A zoning code adopted within the next year or two will have an impact not so much on existing structures as on new development. A major objective of studies to date has been the determination, in so far as possible, of the nature of the changes that can be anticipated in the use of land and the character of buildings to be erected in Boston in the foreseeable future" (Boston City Planning Board December 1953).

To aid planners creating the new Zoning Code, the zoning policies document listed five general policies as a basis for a new Zoning Code. The first suggestion was to replace height and lot coverage limitations with the use of floor area ratios (FAR). The FAR is the ratio of gross floor area of a structure to the total area of the lot. The planners noted that the FAR was the same type of limit of building bulk, but allowed more freedom and flexibility in design to the individual lot-developer. Planners also concluded the FAR "in each zoning district can be safely set to lower figures than Boston's present zoning permits, without
running counter to current design and construction practice."
Reducing the FAR demonstrated an obvious disregard for existing structures because existing structures had more floor area than the new regulation allowed. The third recommendation was that "Boston's new zoning code should recognize the long-range trend toward lower densities in setting maximum floor area ratios for each zone and for each type of use." The fourth recommendation stated that "because of its comparatively weak competitive position in relation to suburban areas, Boston's zoning probably cannot afford to require new construction to follow higher design standards than private builders commonly use in the suburbs."
The latter recommendation showed Boston planners overwhelming concern with suburban development as primary competition and cause for decentralization. The final recommendation concluded that the FAR should decrease from downtown to outlying areas, noting that city land is usually worth less farther out from the downtown, and, therefore, needs less intensive development to be economically feasible (Boston City Planning Board December 1953).

A sixth recommendation stated that "Throughout the city, there is a need for the assembly of larger parcels into single ownership, in order to permit development and redevelopment of areas in accord with modern standards. The great majority of residential parcels, some of which were developed over a century ago, are unable to conform to modern standards of density, coverage, open space, and setback." These policies "will be the basis for further work on the new zoning code" (Boston City Planning Board December 1953).
The new Zoning Code was not completed within the next year as Boston planners expected. The primary task for planners during the next few years was insuring the passage of the 1956 state law allowing Boston planners to create Boston's own Zoning Code. By May 1958, Boston planners produced Proposed Zoning, a draft of Boston's new zoning code.

The 1958 Proposed Zoning represented a preliminary Zoning Code draft before official public hearings but after City Planning Board planners had repeatedly met with community groups. Mayor Hynes received the proposed code from Planning Board Chairman Timothy J. Regan, Jr. whose staff prepared the document under direction and guidance of the firm of Adams, Howard and Greeley, Planning Consultants.

The Proposed Zoning restated Zoning Policies for Boston. The more recent document noted again,

"changes in average size of family and other social changes, have outdated large residential areas, and the zoning that now regulates them...One of the most critical needs is the attraction of new buildings and investment capital to bolster the shrinking tax base and support an adequate level of municipal service... Though Boston is almost solidly built-up, much of the physical plant must be replaced in the near future" (Boston City Planning Board May 1958)

by means of new construction and replacement. Boston planners still maintained a vision of a new Boston consisting of new buildings competitive with suburban development.

Some outstanding features of the proposed regulation included using the FAR as bulk and height control instead of height and lot coverage limits, higher standards for light, air, and open space, concentrated commercial development,
simplification of administrative procedures, and correlation of the zoning with Boston's general plan.

The proposed code started taking shape as the Zoning Code used today with the creation of eight residential districts, eight business districts, and six industrial districts. The residential districts, except for the single family districts, were designed to

"allow a variety of dwelling types to be built, subject to the density and bulk regulations for each district. This is expected to encourage more building investment, enlightened architectural design, and improved site planning, as well as to create more openness and relief from urban monotony" (Boston City Planning Board May 1958).

Also, all districts, except the immediate downtown zones, newly featured an off-street parking requirement.

The proposed code, just as the 1953 zoning policies, concentrated on new construction with little regard for rehabilitating existing structures. The only specific reference to existing buildings was section 4-2 of the Proposed Zoning. Section 4-2 stated

"these regulations shall not apply to existing lawful buildings or structures, not to the existing lawful use of any building or structure, or of land to the extent to which it is lawfully used at the time of the adoption of this Code, but it shall apply to any change of use thereof and to any alteration of a building or structure, subject to the provisions of Sections 9-2 and Section 13-3" (Boston City Planning Board May 1958).

Thus, existing structures must remain as they were, or, somehow be converted to the new dimensional requirements. Section 4-2 effectively prohibited altering existing structures into anything but the low density development that Boston planners envisioned
as the future.

Another version of the Zoning Code was released April 1, 1961. The Proposed Zoning Regulation for the City of Boston was no different than the preceding documents and was virtually the same document adopted in 1963 (Zoning Commission 1961).

The Zoning Code adopted in 1963 essentially exists today except as amended. The critical piece, the dimensional table, is the same today as developed in 1958 and adopted in 1964. The only difference is the establishment of height limits in certain residential zones. By 1961, the City Planning Board was no longer in existence and the newly created BRA under the leadership of Edward J. Logue was responsible for the new Zoning Code.

Startling as the facts may be, the present Zoning Code is not significantly different today than that created by 1950's planners to implement a plan of massive clearance and redevelopment. However, during the past 35 years Boston planners and residents have changed their attitude towards the 1950 General Plan for Boston. Yet, a review of minutes from 1960-1962 hearings on the proposed zoning regulations before the Zoning Commission reveals little opposition to the new Zoning Code, and no opposition to the code sections that encourage new forms of construction. The West End and New York Streets projects were existing examples of what the new Zoning Code was supposed to encourage. But, despite markets shifts towards an increased emphasis on rehabilitation and a decreased emphasis on new construction, the Zoning Code was not altered. Why did the BRA
not alter the new Zoning Code to reflect the changing attitudes?

BRA planners were well aware that "the new Boston Zoning Code was actually drafted before the present multi-project redevelopment program was conceived." Further, BRA planners noted that "further updating with respect to Urban Renewal projects..." was necessary. In response, BRA planners initiated two amendments to the new Zoning Code:

"an amendment creating new zoning districts to be applied to disposition parcels (this is land owned by the BRA within redevelopment projects, held for sale to developers) and, an amendment enabling the Board of Appeal to grant exceptional relief from the zoning code in particular cases to expedite urban renewal construction" (Boston Redevelopment Authority June 1966).

Only three requirements existed within these new districts: listed allowable land uses, a maximum FAR, and off-street parking. The other dimensional requirements were waived.

The purpose of the new urban renewal district was to reduce the development delays caused by having both urban renewal and zoning requirements, together, considered over regulation and an impediment to development. As Logue noted, his intent was to create the "one stop delivery process" for developers. Instead of creating zoning requirements that matched new attitudes towards Boston development, the BRA essentially waived zoning as a development regulatory device and allowed the urban renewal guidelines to serve as the development regulations (Logue 3/18/87). Thus, urban renewal guidelines served as the new planning model coordinated with market forces in place of the Zoning Code. The BRA used a design review process to apply urban renewal controls to the evolving plans of the developer's
architect to regulate development (Boston Redevelopment Authority May 1966). The Zoning Code was amended in several places to accommodate needs for urban renewal districts.

What zoning model was developed during the 1960's to regulate the bulk of Boston not lying within an urban renewal district? According to Logue, no new zoning regulations were developed for the neighborhoods outside urban renewal districts. He acknowledged the BRA did not change the zoning for non-urban renewal areas because of a lack of development activity within those neighborhoods. The BRA had no reason to address the land use regulations for those areas (Logue 3/18/87).

The mid 1960's policy represented the scrapping of the 1950 General Plan for Boston that encouraged new high rise construction with spacious yards and off-street parking and the development instead of urban renewal plans which focused on neighborhood preservation. The 1965-1975 General Plan for the City of Boston was the new official city plan stating the new policies. The dramatic change in planning policy is represented in Table 1 which lists the amount of clearance caused by the different policies. The West End and New York Streets projects represented virtually total clearance while the later urban renewal projects involved only 30% clearance.

Despite changes in real estate preferences and BRA planning policy, the zoning was not, and has not, been changed accordingly. The large number of variance requests is a major side effect of a Zoning Code which implements a clearance/new
Table 1

1950-1966 Percentage of Planned/Actual Project Clearance

<table>
<thead>
<tr>
<th>Project</th>
<th>Date of Grant</th>
<th>Cumulative Clearance Planned</th>
<th>Gross Project Size (Acres)</th>
<th>% Clearance By Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York Streets</td>
<td>1950</td>
<td>92.3%</td>
<td>24.2</td>
<td>92.3%</td>
</tr>
<tr>
<td>West End</td>
<td>1950</td>
<td>95.3%</td>
<td>48.5</td>
<td>96.8%</td>
</tr>
<tr>
<td>Washington Park</td>
<td>1960</td>
<td>36.5%</td>
<td>502.0</td>
<td>22.3%</td>
</tr>
<tr>
<td>Government Center</td>
<td>1960</td>
<td>35.3%</td>
<td>60.5</td>
<td>72.5%</td>
</tr>
<tr>
<td>North Harvard</td>
<td>1961</td>
<td>35.3%</td>
<td>9.3</td>
<td>36.6%</td>
</tr>
<tr>
<td>Charlestown</td>
<td>1962</td>
<td>33.9%</td>
<td>519.3</td>
<td>22.3%</td>
</tr>
<tr>
<td>South End</td>
<td>1962</td>
<td>28.5%</td>
<td>616.0</td>
<td>17.2%</td>
</tr>
<tr>
<td>Downtown Waterfront</td>
<td>1963</td>
<td>29.8%</td>
<td>104.5</td>
<td>57.6%</td>
</tr>
<tr>
<td>Central Business District</td>
<td>1963</td>
<td>29.1%</td>
<td>245.0</td>
<td>23.7%</td>
</tr>
<tr>
<td>South Cove</td>
<td>1964</td>
<td>28.6%</td>
<td>96.5</td>
<td>18.4%</td>
</tr>
<tr>
<td>Fenway</td>
<td>1965</td>
<td>24.3%</td>
<td>507.3</td>
<td>5.7%</td>
</tr>
<tr>
<td>Campus High School</td>
<td>1966</td>
<td>25.2%</td>
<td>129.2</td>
<td>44.3%</td>
</tr>
</tbody>
</table>


development plan while the market adheres to a rehabilitation model. A key indicator is that the Board approved 79% of all variance requests over a recent twenty six month period, indicating the Zoning Code is prohibiting projects the Board feels are justified. The prohibited projects are either larger scale new developments than the current Zoning Code allows, or, alterations to existing buildings as prohibited by Zoning Code Section 4.

Current Efforts to Rewrite the Boston Zoning Code:

Faced with an inappropriate Zoning Code based on a previous planning model, the BRA is proceeding with the rezoning process. While the BRA has not officially adopted a Zoning Code rewriting
process, several large scale rezonings are in the works and close to being ruled upon by the Commission. Three examples of current rezoning efforts are the Downtown Zoning Interim Planning Overlay District (downtown zoning), South End Density Study (density study), and Allston-Brighton Interim Planning Overlay District Policy Recommendations (policy recommendations).

Because rezoning takes time, the 1984 Commission authorized "the creation of Interim Planning Overlay Districts (IPOD). An IPOD is designed to allow comprehensive planning and rezoning of a neighborhood in keeping with the community's needs (as determined and defined by a neighborhood committee).

An IPOD provides temporary zoning regulations for an area where the Zoning Commission has determined the current zoning may be inappropriate" (Boston Redevelopment Authority 1986). An IPOD provides temporary zoning regulations to protect a neighborhood from possible adverse affects of extensive development activity while the final zoning regulation is completed. The temporary status of an IPOD is needed because no one knows when the final Zoning Code will be completed.

The IPOD begins with a neighborhood group working with BRA staff developing temporary goals and objectives regarding appropriate land use types within the neighborhood.

Neighborhoods committees are helping to serve as the planners working to coordinate the planning model and market forces but only within their own boundaries, not with the city-wide perspective in mind. After goals and objectives, the neighborhood group and BRA staff determine a land use table stating which land uses are allowed within the neighborhood and
which uses will need a special IPOD permit granted by the Board. The land use table addresses allowable land uses, but not with the dimensional regulations that are associated with those uses. The dimensional regulations remain as stated in the Zoning Code unless the IPOD specifically changes the requirements.

BRA staff will review the cases needing an IPOD permit and a neighborhood group may, or may not, help review the cases depending how the review process is created for each neighborhood. The Commission adopts the IPOD as an amendment to the Zoning Code. Once adopted, the IPOD amendment is in effect for a two-three year maximum after which new zoning is adopted or the old zoning is reinstated. Thus far, a few IPODs are nearing adoption as amendments but none are finished. Several neighborhoods are under the protective shield of an IPOD. The downtown zoning and the policy recommendations are both results of the IPOD process. The density study is a special study outside the IPOD process intended to provide permanent instead of temporary zoning regulations.

The purpose of the density study "is to determine an appropriate density for the South End and to evaluate the zoning amendment proposals now before the Zoning Commission. The study is a part of the [BRA's] review" of the proposed zoning regulations (Thomas Planning Services, Inc. January 1987). As current BRA Director Stephen Coyle notes, the Zoning Code amendments before the Commission are proposed by South End community residents and groups.

The density study supports zoning downgrading which is
intended to discourage construction of, and conversion to, high density structures. The density study points out that the South End has a problem with residential conversions which allow additional dwelling units within existing structures. Residential conversions are the type of alteration referred to by Zoning Code Section 4 which prohibits adaptive reuse to a more intensive land use, and thus causes conversions to be forbidden. Thus, residential conversions are a common variance request in the South End.

As a solution, the neighborhood representatives, supported by the density study and Coyle, have proposed two major amendments that would amend the Boston Zoning Map. One recommendation changes the H-3 Residential Districts to H-2 Residential Districts. The second recommendation creates a Density Limitation Overlay District (DLOD) that limits the number of dwelling units less than one thousand square feet in each structure. The down zoning from H-3 to H-2 allows less intensive development, reduces the allowable FAR by one third, and requires larger yards and more open space. Stricter requirements affect all new development and only affect existing buildings upon changing to a more intensive land use. The limits placed on residential unit size are an attempt to prevent residential conversions from family units to smaller household units.

The Allston-Brighton study proposes eleven land use policy recommendations intending to preserve the Allston-Brighton's residential character until new final zoning is adopted. Generally, the recommendations consist of: rezoning with newly
developed temporary zoning districts, stricter height limits, billboard restrictions, and parking requirements, and utilizing special affordable housing, mixed use and boulevard planning districts, and requiring certain uses to submit master plans to the BRA for approval (Boston Redevelopment Authority March 1987).

The Downtown Zoning is a considerably more complex study than the Allston-Brighton proposal. Depending on the BRA's current draft, the eleven policy recommendations apply to downtown as well as other parts of Boston. Similar to Allston-Brighton, the downtown proposals require master plans for certain developments, historic preservation, new building height limits, planned development areas, barrier-free access, and environmental mitigation (Boston Redevelopment Authority February 1987).

The three proposed zoning studies are innovative, attempt to be comprehensive, and neighborhood oriented. Instead of creating zoning in accordance with a city-wide comprehensive plan, the BRA has chosen to develop new zoning by committee. Coyle is zoning by "creating scores of planning groups in various areas of the city and working toward a new zoning plan for Boston, one district at a time" (Boston Globe 4/8/87). Coyle rejects the planning model of creating a city-wide plan before developing zoning. As Coyle states, "this is not a time to reach onto a shelf and take down a plan and do development according to that outline" (Boston Globe 4/8/87).

Neighborhood committees are effectively creating land use plans through the IPOD amendments by including a land use schedule. The BRA, however, still has not developed a Zoning
Code rewriting process that matches dimensional regulations with the new land use plan. Thus, as land use plans are created one neighborhood at a time, the neighborhood committees do not have new zoning districts, based on the land use plan specifying allowable land uses and dimensional regulations for those land uses, with which to rezone their neighborhoods. The downtown zoning, density study, and policy recommendations include neighborhood group suggested rezoning based on altering existing zoning districts.

1950's planners coordinated their planning model with the real estate model. The result was a Zoning Code encouraging new low density development and discouraging rehabilitation of existing high density structures. As land owners adapted towards higher density development and reuse of existing structures, the Zoning Code was not altered. During the early 1960's the BRA decided to coordinate the urban renewal guidelines with the market model instead of the Zoning Code. Now that urban renewal is over and the real estate market has boomed, the BRA is under pressure to coordinate a planning model with market forces. The BRA has chosen to ignore creating a city-wide plan allowing neighborhoods to rezone themselves in a piecemeal manner. The BRA, thus far, has not developed a comprehensive redrafting process nor established new zoning districts different than the zones encouraging an outdated vision created by 1950's planners and currently rejected by neighborhood committees and development interests working with the BRA to rezone their neighborhoods.
Variance Cases Analysis:

What Variance Requests Reveal About Market and Zoning Code Discrepancies

A historical review of the current Zoning Code's development indicates that the regulations were written to coordinate a planning model with 1950's market forces. At present that coordination has broken down. The market has changed over the years while the planning model/Zoning Code has remained the same. The break down between the market and planning models is exemplified by the role of variance cases in the current zoning system.

The following is an examination of variance cases in the current zoning system. Such an analysis is necessary to define specifically which Zoning Code regulations are consistently challenged by land owners. The intent is to narrow the focus of the BRA's initial rewriting efforts from the entire Zoning Code to the sections of the regulation the market finds are a hindrance to development and most critically in need of further evaluation. Once the most frequently violated sections are determined, the BRA can then decide if these sections should be revised, or, have a justifiable public purpose for continuing to prevent certain types of development by right and forcing those projects into the appeal process. Such an analysis also is necessary to understand why an increasing number of variance requests are flooding the appeal process.

Zoning theory argues that variances should be an exception to the Zoning Code based on an unusual hardship placed upon the
property owner. Currently, variances are not an exception but the rule for getting a building permit. For example, Boston Mayor Flynn set a goal of creating 3,400 new housing units within the city during 1986. At least 2,628 new housing units were proposed through the appeal process and therefore subject to zoning Board of Appeal (Board) approval*.

The Board serves as a mediator between the market and planning forces. The Board judges if the Zoning Code is not working or is unfair. When the market finds the Zoning Code too restrictive, land owners seek a variance. The appeal process serves as a market clearing system for projects that are not clearly within right of the Zoning Code, nor, clearly in violation of the planning purpose behind the Zoning Code. The appeal process allows the Board discretionary review over the middle ground cases which violate the Zoning Code but are not necessarily against the Code's intent.

If the city building department refuses to issue a building permit, finding the proposed project violates Zoning Code requirements, a building permit applicant can apply for a zoning variance. Upon permit refusal, the applicant has 45 days to apply to the Board for a public hearing. Hearing dates are scheduled by Board staff in the order in which the appeals are filed and hearings are held weekly. The Board must wait at least

*This total reflects almost a complete census of appeal cases during 1986. The aggregated total is only for cases involving land owners requesting to increase the number of housing units more than previously existed on each parcel. The total does not subtract units when a land owner requests to reduce the number of units and the total does not account for a small portion of cases of which the number of existing and/or proposed units was not known.
thirty days before holding the hearing. During that time, the Board notifies each abutter to the proposed project and has BRA staff review the proposal and recommend a decision to the Board. Because of the increase in variance requests, the actual waiting period for a hearing may be from to two to three months. During the hearing, all those present are allowed to speak for or against the project. Once testimony is completed, the Board makes a ruling to approve, approve with certain provisions, deny, or defer the decision on the project. If the Board approves the project, as long as the applicant meets any provisions the Board imposes, the building department will then issue a permit. If the Board denies the project, the Board states whether the applicant may immediately reapply for another hearing or wait one year to do so. Figure 3 lays out the appeal process.

The variance process is available to every parcel in all 32 zoning districts established by the Zoning Code. Zoning districts provide regulations tailored to match the different existing, or planned, community characters. Enough zoning districts should exist to accommodate all the different community characters. The 32 zoning districts are divided into three general district types: residential districts, business districts, industrial districts. The residential districts have two single family zones, two general residential zones, and ten apartment residential zones. The business districts include four local business zones and eight general business zones. In industrial districts there are four restricted manufacturing
zones, one general industrial zone and one waterfront industrial zone. Each zone is unique allowing specific land uses and providing specific dimensional regulations for those uses.

Variances are a poor method for reviewing large numbers of building permit applications because the process consumes time and money. The building department is supposed to review the mundane day to day permit requests without community input on each permit. The variance process is designed to be more lengthy, involving public review of each case. Variance seekers need community approval to deviate from the zoning regulation: involving a lengthy process of BRA staff site visits,
interviewing concerned citizens and the Board holding at least one public hearing. The process is costly to the applicant. An applicant adding residential units within an existing structure faces at least a three month delay receiving a building permit costing thousands of dollars in potential rental income. The same applicant could lose hundreds of thousands of dollars in lost income and decreased property values if the variance is denied. The current average single family home value for the Boston market is $200,000. Thus, housing is at a premium and the stakes are high for a land owner petitioning the Board for a variance (The Associated Press 4/28/87).

To get a clear sense of the nature and content of the variance process, I inventoried 1,666 zoning variance cases, virtually all cases reviewed by the BRA and ruled on by the Board from January 1, 1985 through mid March 1987. The variables in the inventory included location of variances, site characteristics, unmet use and dimensional regulations, and BRA and Board decisions. A complete description of how I defined each variable and analyzed the data is provided in the appendix.

A comprehensive analysis of variance cases had not been done by the BRA before this study. Neither BRA planners nor the Board have had access to aggregated information about variance requests. Thus, both BRA planners and Board members have relied on mental recollection when trying to pinpoint information about variance cases. The variance analysis is a first attempt to gain insight regarding what variance cases can reveal about problems
with the Boston Zoning Code.

The variables were initially sorted four different ways: 1) by the BRA designated sixteen neighborhoods and 64 sub-neighborhoods; 2) by the 32 zoning districts; 3) by type of unmet Zoning Code regulations; and 4) by project types. The boundaries of the 16 neighborhoods and 64 sub-neighborhoods are unrelated to the boundaries of the 32 zoning districts. Figure 4 shows Boston's 16 neighborhoods and Figure 5 shows how the Allston-Brighton neighborhood is divided into zoning districts.

An analysis of the data reveals that all neighborhoods, except the three furthest from Central Boston and most suburban in character, West Roxbury, Roslindale, Hyde Park (suburban neighborhoods), have the same types of variance requests and cannot meet the same Zoning Code dimensional regulations. The three outlying suburban neighborhoods also are similar to one another having the same types of variance requests with land owners not meeting the Zoning Code dimensional regulations. Viewing Boston by zoning district yields the same result as viewing Boston by neighborhood. Except for the two single family zones and a two family zone that characterize the suburban neighborhoods, the types of variance requests violate the same Zoning Code dimensional regulations. The three suburban neighborhoods' zoning districts again are similar to each other. Viewing Boston by project type, certain project types are repeatedly unable to meet specific Zoning Code dimensional regulations.

In the cases in which a final decision has been recorded,
Figure 4

Boston's Sixteen Neighborhoods

Source: Boston Redevelopment Authority

42
Figure 5

The Allston-Brighton Neighborhood Divided Into Zoning Districts


the Board has approved, or approved with provisions attached, 79% of the variance requests. Table 2 shows the Board's approval rate is not in defiance of BRA recommendations as the BRA has recommended approval of 74% of the variance requests. Except for a few sub-neighborhoods, such as the Commonwealth Street
Table 2

<table>
<thead>
<tr>
<th>BRA Decision</th>
<th>Board of Appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Approval as Submitted</td>
<td>14%</td>
</tr>
<tr>
<td>Approval with Provisos</td>
<td>65%</td>
</tr>
<tr>
<td>Denial</td>
<td>21%</td>
</tr>
<tr>
<td>Total</td>
<td>100%*</td>
</tr>
</tbody>
</table>

*The BRA total reflects 1,399 appeal cases (84% of all cases) of which a final BRA decision to approve or deny the appeal was recorded. The Board of Appeal total reflects 1,469 appeal cases (88% of all cases) of which a final Board decision to approve or deny the appeal was recorded.

apartment building corridor in the Allston-Brighton neighborhood or the Mt. Hope single family home section of the Roslindale neighborhood, the Board has high approval rates regardless of the neighborhood, sub-neighborhood, zoning district, or project type.

The projects that come before the Board are primarily housing related. 76% of all cases included a housing related use involving either the entire structure or a mix of uses that included housing units. Because Boston has a housing shortage, housing suppliers are trying to provide more residential units through new construction and building conversions which add more units to structures already containing residential units. The market's response to housing demand is evidenced by the fact that 59% of all variance requests involved a property owner proposing more residential units than originally existed. Also, many cases change the land use from a non-residential use to a residential use.

In the next few paragraphs, I will describe my findings in
the following order: 1) trends within neighborhoods; 2) trends related to dimensional regulations; 3) trends by zoning district; and 4) trends by project type.

**Trends Within Neighborhoods:**

Despite the differences in lot sizes and building types among neighborhoods, thirteen neighborhoods have the same proposed project types needing a variance violating the same regulations. The three suburban neighborhoods have projects and zoning violations somewhat different than the other thirteen neighborhoods but similar to each other. The number of variance cases differs among neighborhoods. While Mattapan/Franklin had 42 cases and North Dorchester 55 cases over the 26 month period, Allston-Brighton had 167 cases and South Boston 161 cases. Regardless which neighborhood, the Board maintained a consistently high rate of case approval. Table 3 displays the number of variance cases within each neighborhood and the Board's decision for the portion of cases of which a final decision to approve or deny was recorded.

Changing the existing building occupancy to a different combination of land uses was by far the most common project proposed in fourteen of the neighborhoods. Only in Hyde Park did more variance applicants seek to erect new structures than to modify the use or structure within an existing structure. The second most frequent project type was additions to existing structures involving 24% of all variance requests. Table 4 lists the most common project within each neighborhood and the portion of cases involving that project type.
### Table 3
The Number of Appeal Cases By Neighborhood
And Board of Appeal Decisions

<table>
<thead>
<tr>
<th>Neighborhood</th>
<th>Number of Appeals</th>
<th>% of Total</th>
<th>Board Approval Number</th>
<th>Rate</th>
<th>Board Denial Number</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Boston</td>
<td>123</td>
<td>7.4</td>
<td>84</td>
<td>79%</td>
<td>22</td>
<td>21%</td>
</tr>
<tr>
<td>Charlestown</td>
<td>89</td>
<td>5.3</td>
<td>70</td>
<td>86%</td>
<td>11</td>
<td>14%</td>
</tr>
<tr>
<td>South Boston</td>
<td>161</td>
<td>9.7</td>
<td>104</td>
<td>76%</td>
<td>33</td>
<td>24%</td>
</tr>
<tr>
<td>Central Boston</td>
<td>117</td>
<td>7.0</td>
<td>81</td>
<td>78%</td>
<td>23</td>
<td>22%</td>
</tr>
<tr>
<td>Back Bay/Beacon Hill</td>
<td>96</td>
<td>5.8</td>
<td>68</td>
<td>82%</td>
<td>15</td>
<td>18%</td>
</tr>
<tr>
<td>South End</td>
<td>140</td>
<td>8.4</td>
<td>107</td>
<td>86%</td>
<td>18</td>
<td>14%</td>
</tr>
<tr>
<td>Fenway/Kenmore</td>
<td>56</td>
<td>3.4</td>
<td>41</td>
<td>84%</td>
<td>8</td>
<td>16%</td>
</tr>
<tr>
<td>Allston-Brighton</td>
<td>167</td>
<td>10.0</td>
<td>100</td>
<td>69%</td>
<td>45</td>
<td>31%</td>
</tr>
<tr>
<td>Jamaica Plain</td>
<td>117</td>
<td>7.0</td>
<td>78</td>
<td>76%</td>
<td>25</td>
<td>24%</td>
</tr>
<tr>
<td>Roxbury</td>
<td>90</td>
<td>5.4</td>
<td>66</td>
<td>80%</td>
<td>17</td>
<td>20%</td>
</tr>
<tr>
<td>South Dorchester</td>
<td>124</td>
<td>7.4</td>
<td>90</td>
<td>80%</td>
<td>23</td>
<td>20%</td>
</tr>
<tr>
<td>Roslindale</td>
<td>95</td>
<td>5.7</td>
<td>63</td>
<td>71%</td>
<td>26</td>
<td>29%</td>
</tr>
<tr>
<td>West Roxbury</td>
<td>100</td>
<td>6.0</td>
<td>66</td>
<td>81%</td>
<td>15</td>
<td>19%</td>
</tr>
<tr>
<td>Hyde Park</td>
<td>94</td>
<td>5.6</td>
<td>66</td>
<td>80%</td>
<td>16</td>
<td>20%</td>
</tr>
<tr>
<td>Mattapan/Franklin</td>
<td>42</td>
<td>2.5</td>
<td>28</td>
<td>76%</td>
<td>9</td>
<td>24%</td>
</tr>
<tr>
<td>North Dorchester</td>
<td>55</td>
<td>3.3</td>
<td>43</td>
<td>84%</td>
<td>8</td>
<td>16%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,666</strong></td>
<td><strong>100.0%</strong></td>
<td><strong>1,155</strong></td>
<td><strong>79%</strong></td>
<td><strong>314</strong></td>
<td><strong>21%</strong></td>
</tr>
</tbody>
</table>

*Only 1,469 appeal cases (88% of all cases) had a recorded Board decision of approval or denial.

Existing structures needing variances because the proposed use is forbidden, or conditional, or that the existing structure could not meet the dimensional regulations is not surprising since the present Zoning Code was designed to encourage new construction and discourage existing structure rehabilitation. The frequency of land owners changing the building occupancy is actually higher if legalizations are included. A legalization is a request for a change in occupancy when the property owner has made the alteration without first acquiring a permit. Legalizations involve another 12% of all variance requests and are the fourth most common project proposal. Erecting a new
Table 4

Most Common Project Type By Neighborhood
And Percent of All Cases Involving The Project Type

Project Types: Change Occupancy (changing land uses on a parcel)
Addition To Existing Structures
Erect a New Structure
Erect An Auxiliary Structure
Legalize a Land Use
Subdivide a Property
Parking Related Project
Miscellaneous (consisting of lot combinations, erecting signs, erecting porches and other nonliving space)

<table>
<thead>
<tr>
<th>Neighborhood</th>
<th>Most Common Project</th>
<th>Second Most Common Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Boston</td>
<td>Change Occupancy 42%</td>
<td>Addition 20%</td>
</tr>
<tr>
<td>Charlestown</td>
<td>Change Occupancy 38%</td>
<td>Legalize a Use 32%</td>
</tr>
<tr>
<td>South Boston</td>
<td>Change Occupancy 35%</td>
<td>Addition 24%</td>
</tr>
<tr>
<td>Central Boston</td>
<td>Change Occupancy 45%</td>
<td>Addition 30%</td>
</tr>
<tr>
<td>Back Bay/Beacon Hill</td>
<td>Change Occupancy 46%</td>
<td>Addition 31%</td>
</tr>
<tr>
<td>South End</td>
<td>Change Occupancy 50%</td>
<td>Addition 29%</td>
</tr>
<tr>
<td>Fenway/Kenmore</td>
<td>Change Occupancy 48%</td>
<td>Addition 23%</td>
</tr>
<tr>
<td>Allston-Brighton</td>
<td>Change Occupancy 50%</td>
<td>Addition 22%</td>
</tr>
<tr>
<td>Jamaica Plain</td>
<td>Change Occupancy 52%</td>
<td>Addition 22%</td>
</tr>
<tr>
<td>Roxbury</td>
<td>Change Occupancy 46%</td>
<td>Erect a Structure 19%</td>
</tr>
<tr>
<td>South Dorchester</td>
<td>Change Occupancy 52%</td>
<td>Erect a Structure 22%</td>
</tr>
<tr>
<td>Roslindale</td>
<td>Change Occupancy 43%</td>
<td>Erect a Structure 26%</td>
</tr>
<tr>
<td>West Roxbury</td>
<td>Addition 40%</td>
<td>Erect a Structure 28%</td>
</tr>
<tr>
<td>Hyde Park</td>
<td>Erect a Structure 34%</td>
<td>Addition 26%</td>
</tr>
<tr>
<td>Mattapan/</td>
<td>Change Occupancy 38%</td>
<td>Erect a Structure 26%</td>
</tr>
<tr>
<td>Franklin</td>
<td>Change Occupancy 38%</td>
<td>Erect a Structure 26%</td>
</tr>
<tr>
<td>North Dorchester</td>
<td>Change Occupancy 38%</td>
<td>Erect a Structure 22%</td>
</tr>
</tbody>
</table>

structure is the third most common proposal involving 18% of all variance requests.

Trends Related To Dimensional Regulations:

Except for the three suburban neighborhoods, applicants seek relief from several specific dimensional regulations. The FAR is the Zoning Code requirement land owners most frequently can not meet. The lot area per unit requirement and the open space per
unit requirement are frequently violated as well. Land owners are consistently providing less than the Zoning Code demands. The forbidden residential land use regulation, most often a conversion, is frequently violated. The forbidden residential conversion regulation states that adding residential units is strictly forbidden if the building and/or parcel do not meet at least one half of certain dimensional regulations such as the FAR, open space per unit, lot area per unit, or parking per unit requirements. Thus, applicants requesting forbidden residential conversions are serious Zoning Code violators because the project fails to provide at least one half what the Zoning Code requires. The market apparently finds these regulations too prohibitive as 22.5% of all variance cases involve a forbidden residential conversion. The Zoning Code blocks the market from creating higher residential unit densities within existing structures or constructing residential uses of similar unit density on vacant land. Table 5 lists the Zoning Code regulations most frequently unmet by land owners seeking building permits.

The rear, front, and side, yard requirements are frequently violated. Once a land owner requests to alter an existing structure, the structure must conform to the spacious yard requirements the Zoning Code demands. Many sites can not fulfill the yard requirements particularly the rear yard requirement. The rear yard was of special importance to 1950's planners because the planners emphasized private open space for each structure.
Table 5
The Zoning Code Regulations Most Frequently Unmet By
Land Owners Seeking Building Permits

<table>
<thead>
<tr>
<th>Zoning Code Section</th>
<th>Description</th>
<th>Number of Cases Violating This Regulation</th>
<th>% of Cases Violating This Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-1</td>
<td>Floor Area Ratio (FAR)</td>
<td>586</td>
<td>35%</td>
</tr>
<tr>
<td>14-2</td>
<td>Lot Area Per Unit</td>
<td>467</td>
<td>28%</td>
</tr>
<tr>
<td>8-7</td>
<td>Forbidden Residential Land Use</td>
<td>466</td>
<td>28%</td>
</tr>
<tr>
<td>17-1</td>
<td>Open Space per Unit</td>
<td>466</td>
<td>28%</td>
</tr>
<tr>
<td>20-1</td>
<td>Required Rear Yard</td>
<td>434</td>
<td>26%</td>
</tr>
<tr>
<td>18-1</td>
<td>Required Front Yard</td>
<td>307</td>
<td>18%</td>
</tr>
<tr>
<td>23-1</td>
<td>Residential Off-Street Parking per Unit</td>
<td>275</td>
<td>17%</td>
</tr>
<tr>
<td>19-1</td>
<td>Required Side Yard</td>
<td>273</td>
<td>16%</td>
</tr>
<tr>
<td>8-7</td>
<td>Conditional Land Use</td>
<td>251</td>
<td>15%</td>
</tr>
<tr>
<td>14-1</td>
<td>Minimum Lot Size</td>
<td>250</td>
<td>15%</td>
</tr>
</tbody>
</table>

Total Number of Appeal Cases 1,666

Trends By Zoning District:

The single family zones (S zones) are found within several neighborhoods but mostly cover the suburban neighborhoods. Additions to existing buildings and erecting new structures are the most common projects within single family zones. Although requests to change building occupancy are common within single family zones, the single family zones are the only residential zones that a change in building occupancy is not the most common variance request. Table 6 lists the most common project within each zoning district containing 80 or more appeal cases.

Requests for forbidden uses is the zoning regulation from which applicants most often seek relief within single family zones. Variance seekers often want nonresidential uses within these zones and frequently request more than one residential unit which is forbidden. Front, rear, and side yard requirements are
Table 6

Most Common Project Within Each Zoning District
And Percent of All Cases Involving That Project Type

Project Types: Change Occupancy (changing land uses on a parcel)
Addition To Existing Structures
Erect a New Structure
Erect An Auxiliary Structure
Legalize a Land Use
Subdivide a Property
Parking Related Project
Miscellaneous (consisting of lot combinations, erecting signs, erecting porches and other nonliving space)

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Most Common Project</th>
<th>Second Most Common Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>S-.5</td>
<td>Addition</td>
<td>36%</td>
</tr>
<tr>
<td>R-.5</td>
<td>Change Occupancy</td>
<td>47%</td>
</tr>
<tr>
<td>R-.8</td>
<td>Change Occupancy</td>
<td>41%</td>
</tr>
<tr>
<td>H-1</td>
<td>Change Occupancy</td>
<td>46%</td>
</tr>
<tr>
<td>H-1-50</td>
<td>Change Occupancy</td>
<td>39%</td>
</tr>
<tr>
<td>H-2</td>
<td>Change Occupancy</td>
<td>51%</td>
</tr>
<tr>
<td>H-3</td>
<td>Change Occupancy</td>
<td>56%</td>
</tr>
</tbody>
</table>

*Only the zoning districts involving 80 or more appeals cases are listed. The 7 of 32 zoning districts with 80 or more cases all are residential zoning districts. The S zones are the single family zones, the R zones are general residential zones, and the H zones are apartment zones.

three other common zoning violations. The Zoning Code demands more yard space than land owners want to provide.

A change in building occupancy is by far the most common variance request within the general and apartment residential zones (R and H zones). Additions and erecting new structures are also common. The general and apartment residential zones have many requests for forbidden uses, often residential conversions, and relief from the lot size per unit, FAR, open space per unit, and rear yard requirements.
Trends By Project Type:

Change in building occupancy involved 42% of all variance requests. Change in building occupancy is predominantly an increasing residential unit density issue as 76% of all change in occupancy cases and 32% of all variance cases are attempts to increase residential unit density. Consistent with previous findings, change in occupancy frequently results in forbidden uses, most often forbidden residential uses, because the land owners attempted to add residential units but the site could not meet one half the Zoning Code dimensional regulations. Four dimensional regulations are clearly the obstacles preventing land owners from changing the building occupancy: the lot area per unit, the FAR, the open space per unit, and the off-street parking per unit requirements. Table 7 lists the frequency of project types.

Additions to existing structures involves 24% of all variance requests. Adding floor area frequently violates the FAR limits. Most existing structures already have more floor area than the Zoning Code allows. The 1950's planners established a lower FAR than existing building have to encourage new lower density structures. Existing structures are allowed to remain in present state. Once a land owner seeks to alter the FAR by adding floor area, the structure can not conform and is no longer legal. The purpose was to prohibit altering existing structures, and allow only the construction of new less dense structures.

The situation is no different when land owners request to erect a structure. Because land assemblage is almost impossible
Table 7

Frequency of Project Types

<table>
<thead>
<tr>
<th>Project Type</th>
<th>Number of Cases</th>
<th>% of Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change Occupancy</td>
<td>701</td>
<td>42%</td>
</tr>
<tr>
<td>Addition</td>
<td>395</td>
<td>24%</td>
</tr>
<tr>
<td>Erect a Structure</td>
<td>292</td>
<td>18%</td>
</tr>
<tr>
<td>Legalize a Use</td>
<td>201</td>
<td>12%</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>162</td>
<td>10%</td>
</tr>
<tr>
<td>Subdivision</td>
<td>76</td>
<td>5%</td>
</tr>
<tr>
<td>Parking</td>
<td>72</td>
<td>4%</td>
</tr>
<tr>
<td>Erect an Auxiliary Structure</td>
<td>44</td>
<td>3%</td>
</tr>
</tbody>
</table>

Total Projects 1,943*  Total Cases 1,666*

*The number of cases involving the project type (1,943) exceeds the total number of cases (1,666) because a case can involve more than one project, such as a change occupancy and an addition. The percent of cases involving the project type is based on the total number of cases.

In Boston, land owners seek to build in fill structures and squeeze as many units as possible on to each site. Similarly, the new structures are unable to conform with the FAR, yard, and off-street parking per unit requirements. New structures are also frequently violating the required lot width dimension. Land owners no longer want to build the type of structures on large lots that 1950's planners envisioned and are requesting to build larger buildings on smaller parcels and with less open space than the Zoning Code allows.

The land owners are pushing reform of several Zoning Code dimensional regulations through the variance process. The regulations: FAR, lot area per unit, open space per unit, off-street parking per unit, forbidden residential conversions to add residential units, and the residential yard requirements are consistently granted variances by the Board.
These regulations are prohibiting primarily housing related projects. The Zoning Code restricts many residential projects because the structure and lot layout are not the dimensions the Zoning code demands, not because of the number of residential units involved. The Board and BRA are approving the appeals because the Zoning Code is prohibiting the structure and lot layout character that the market, neighborhood groups, and planners, alike, both want Boston to be.
Summary of Findings:
The Problems With The Zoning Code and Current Rewrite Process

Zoning theory posits that zoning regulations control two development issues: the specific land uses and the physical dimensions of those uses. Real estate interests and planning interests are the two driving forces that shape these development issues. Planners determine which land uses to allow and the accompanying dimensional regulations through a planning process creating a comprehensive land use plan. Through such a process, planners evaluate what land owners want to do with their property and create a plan that allows development within a public interest framework stated within the plan. The zoning process includes an appeal system that allows land owners to challenge the zoning regulation whenever the zoning places an unusual hardship upon the property owner.

Zoning theory also posits that zoning districts should reflect the various characters that make up a community. The regulations can not be stagnant, they must keep pace with the continuously changing community land use needs.

A historical review of the current Boston Zoning Code's development indicates 1950's planners created the Zoning Code as the zoning theory model would suggest. Planners studied how land owners utilized their property and created a plan that coordinated the market forces with a community plan. Planners responded to the market and Boston's needs by creating a Zoning
Code that carefully laid out which land uses should be encouraged and utilized specific techniques such as the FAR, and lot area, open space, and off-street parking requirements per unit, to regulate the physical dimensions of those land uses.

Since the 1950's, land owners have come in conflict with the zoning model. The real estate market has changed, choosing to reuse existing buildings and maintain long standing property boundary layouts in a manner totally unforseen by 1950's planners. The Zoning Code, however, has not changed.

Current pressure for Zoning Code reform reveals problems with the current Zoning Code and the rewrite process: 1) the Zoning Code has a problem with several dimensional regulations; 2) Boston needs a complex rezoning process; and 3) the current Interim Planning Overlay District (IPOD) process does not provide a mechanism to get the BRA beyond the temporary zoning regulation and into a process that will result in a comprehensive city-wide Zoning Code complete with new zoning districts.

**Problems With The Dimensional Regulations:**

A key indicator that the Zoning Code no longer reflects what land owners want is the appeal process. Within Boston, the appeal process has had increasing numbers of variance requests so that the zoning Board of Appeal (Board) no longer hears hardship cases, but, many mundane projects which the Zoning Code could clearly specify are legal or prohibited. Thus, the Board is serving as a regulating device working with a different set
of criteria than the Zoning Code. Both the BRA and Board are approving more than three of every four variance requests, thus indicating that they find the existing zoning is restricting viable development. The appeal process is one way the BRA can deal with the current dimensional regulations. The appeal process, however, is not the best means to do so. Variances are too difficult to process, compared to a typical building permit, requiring extensive public review and a hearing for each case often delaying projects for months. Variances should be reserved for projects that face unusual circumstances that a Zoning Code can not account for in advance.

The foregoing analysis of variance requests provides insight in Zoning Code problems and could help the BRA while developing a rewriting process. Regarding land use issues, variance requests demonstrate that Boston's zoning problem is a housing issue.

Neighborhood groups like those in the South End and Allston-Brighton are concerned with regulating housing unit density. No group, thus far, has explored the link between regulating unit density and regulating the physical housing units which support that level of density. The Zoning Code's problem regulating unit density exists in the dimensional regulations. Developers are not necessarily trying to intensify population densities within existing structures or by erecting new structures of similar density, but, often are coping with dimensional regulations that do not correspond with existing structures and
lot layouts.

The variance analysis shows that the Zoning Code is rejecting the physical environment not the density level. A property owner that changes the building use from three to four residential units often appears before the Board when the property does not meet all the dimensional regulations even though four units, alone, may be desireable. The same property owner that changes the building occupancy from three to one unit does not appear before the Board even though the property still does not meet all the dimensional regulations of the Zoning Code. As Section 4-1 of the Zoning Code states, a property altered more in conformity of the Zoning Code, even though still in violation, is allowed as a legal land use.

An example is the triple decker houses along Douglas Street in South Boston. These structures represent the character that South Boston residents would most likely desire to preserve. If a property owner tried to replicate an identical structure on the same sized lot, whether proposing one or three units, the Zoning Code would prohibit the project based on insufficient lot size. The dimensional regulations are not necessarily unmet because of an increase in unit density, but, because of a change in an existing structure out of character with the type of structures each zoning district is designed to encourage. The same building and land is often inadequate regardless if the land owner is increasing or decreasing the unit density. The current zoning districts' characters are captured in the 1950
General Plan For Boston which envisions a new suburban style Boston layout and discourages rehabilitating existing structures. The 1950's vision of Boston that never materialized and the current market demand for rehabilitation could easily share the same desired residential unit density level. The Zoning Code dimensional regulations, however, only allow the former vision to occur without an appeal to the Board.

Specific dimensional regulations are repeatedly challenged by land owners. Reviewing variance requests reveals that several Zoning Code regulations are consistently unmet when land owners want to change a land use, add a building addition, or erect a new structure. Land owners frequently request more floor area than the Floor Area Ratio (FAR) requirement will allow. Land owners consistently request smaller front, side, and rear yards than are required. Land owners have difficulty providing the required amounts of open space, lot area, and off-street parking that the Zoning Code demands per residential unit. Land owners also seek approval of forbidden residential uses. The forbidden residential uses are often not more units than the Zoning Code would allow for each particular zoning district, but, the land owner does not have the building and/or lot layout to support that number of units.

Land owners and the current Zoning Code have become further disjointed because the dwelling unit densities are not accurate measures of current population densities. According to Jack Howard, a consultant that helped draft the current Zoning Code,
the per unit requirements that 1950's planners used were based on 1948 American Public Health Association standards for the average household size of 3.6 persons (Howard 2/13/87; American Public Health Association 1948). By 1970, Boston only averaged 2.8 persons per household and by 1980 2.4 persons per household. The dimensional regulations, however, have not changed to account for the 33% average decrease in average household size. Land owners, thus, could increase the number of residential units within a structure an average of 33% without increasing the total population within a structure beyond what 1950's planners envisioned as an appropriate density. Yet, the Zoning Code consistently prohibits land owners from adding more housing units, and still requires the same amount of lot area, open space, and off-street parking appropriate for larger household sizes seeking suburban style housing.

The Need For A Complex Zoning Process:

The current zoning process has become more complicated than the approach utilized by the current Zoning Code's originators. Neighborhood groups have emerged as a new primary actor in the zoning process. While neighborhood groups have some traits of each real estate and planning interests, neighborhood groups have their own agendas and often are at odds with both the BRA and land owners. To address the neighborhood interests issue, the BRA has come up with the IPOD process which provides temporary zoning guidelines tailored for each neighborhood until the BRA can determine appropriate comprehensive city-wide zoning
The IPOD process has revealed that the new Zoning Code will have to do more than regulate land uses and the accompanying dimensional regulations. The new Zoning Code will regulate broader planning objectives such as transportation plans, affordable housing, design standards, and community reinvestment. The IPOD process has not revealed a process that will comprehensively develop a new permanent Zoning Code. The BRA is also initiating the Zoning Code revision process without first establishing a land use plan for Boston that would be the basis for the new zoning regulation.

Problems With IPOD Process:

The BRA has begun the Zoning Code rewriting process by initiating the IPOD process. The IPOD process substitutes for the lack of a city-wide comprehensive land use plan. Neighborhood committees work with the BRA establishing land use guidelines for each neighborhood which could be utilized as a land use plan. The IPOD process, however, has problems. IPOD land use guidelines are comprehensive within each neighborhood but are not coordinated city-wide. IPODs are parochial, lacking coordination with surrounding neighborhoods and only address neighborhood land use interests without representation of regional oriented land uses, such as airport support services, hospitals, or universities that are vital to the region but are often at odds with neighborhood residents. IPODs also place a deadline upon the BRA for adopting final zoning regulations for
each neighborhood, but offer no insight how that process should work.

IPODs are comprehensive within each neighborhood regarding land uses and broader planning issues, but, do not comprehensively address the dimensional regulations that accompany the land uses. The Downtown Zoning Interim Planning Overlay District and Related Citywide Amendments and Allston-Brighton Interim Planning Overlay District Policy Recommendations are two examples of IPODs. The only dimensional regulations either document addresses is the height limit for structures. The variance analysis, however, finds that land owners consistently seek relief from several dimensional regulations suggesting the requirements need the comprehensive review that land uses are receiving.

A Product of The Current Rewrite Process:

The South End Density Impact Study (density study) is an example of problems caused by not addressing land use dimensional regulations. The South End neighborhood is the only community to bypass temporary regulations in favor of seeking new, permanent zoning. The density study assesses the South End's land use issues and recommends that a lesser population density is appropriate for the neighborhood and the community should have a certain proportion of family households. The proposed rezoning consists of changing all existing H-3 zones to H-2 zones. The difference between the two zones is that the H-2 zone requires more open space per housing unit, larger front and
rear yards, and allows 33% less floor area per property. The H-2 zone does impose stricter regulations that are oriented towards a lower housing unit density. But, the existing South End structures can not conform to the FAR, yard, and per unit requirements of an H-2 zone and will continue to force land owners into the appeal process whenever they seek to change the land uses or the building configuration within existing structures even though such projects could easily be within density levels acceptable to neighborhood committees. The H-2 zones will also force in fill structures to be lower density than H-3 zones, but encourage buildings that are out of character with existing South End structures because the yard, lot size, and open space requirements are not reflective of existing structures.

If the IPOD process and density study are indications of how rezoning is to take place, the rezoning process will not address three key issues: 1) Boston needs a city-wide land use plan to address regional interests along with neighborhood interests; 2) current rezoning efforts are land use oriented but neglect to comprehensively address the dimensional regulations that regulate the structures on each property; and 3) the current rezoning process has no mechanism to get the BRA beyond the IPOD process and determine the appropriate dimensional regulations to protect the character each neighborhood wants to preserve.
Recommendations:
Revising The Boston Zoning Code

The Current Predicament:

The BRA's current rezoning process is problematic. Even though the BRA intends to rewrite a new city-wide zoning ordinance, IPODs are not working to rezone the entire city. The IPODs are strong focusing on neighborhood oriented land use needs, but are weak representing city-wide and regional land use needs. The IPODs also are neglecting the dimensional regulations that shape the physical environment. Of critical importance, the BRA is not clear what rezoning process lies beyond the temporary zoning created by the IPOD process.

While neighborhood groups are concerned with land uses that make up each neighborhood, the current Zoning Code is more troubled by the dimensional regulations that reflect a 1950 vision of Boston that does not exist. The current method of dealing with the inappropriate dimensional regulations is through the appeal process which is overwhelmed with variance requests. The appeal process is proving to be a poor mechanism of judging projects that the Zoning Code should clearly state are allowed or prohibited.

The BRA appears backed into a corner. Along with each IPOD amendment is a BRA commitment to have new permanent zoning regulations with two years for each neighborhood involved in the IPOD process. The commitment was made without first devising a
process that will lead to the new Zoning Code. IF the BRA wants to get beyond the IPOD process and address these problems, the BRA needs to do something different.

Recommendations:

To reestablish an equilibrium between the planning and market forces, along with neighborhood interests, the BRA must stop making incremental zoning revisions with inappropriate zoning regulations based on an outdated image of the city and develop a process to comprehensively rewrite the new Zoning Code. The following recommendations address the BRA's current predicament. From my point of view, the only way the BRA can pull the issues together in a way that leads to a new city-wide Zoning Code that coordinates with Boston's land use needs is to focus the Zoning Code rewriting efforts on four issues: 1) develop a rezoning process beyond the IPOD process and complete through the adoption of a city-wide Zoning Code; 2) work with interested parties to complete land use plans for each neighborhood as a basis for a city-wide land use plan; 3) upon completing the land use plans, create new zoning districts with newly formulated dimensional regulations which the IPOD process is neglecting; and 4) administer the application of the zoning districts within each neighborhood in accordance with the land use plan. The following are examples how the BRA could implement these recommendations.

A Rezoning Process:

The BRA's first step in the rezoning process is to develop a
city-wide land use plan. One alternative to a plan is to continue negotiating development projects case by case through the appeal process. A second alternative is to let the real estate market decide itself what are appropriate land uses without BRA or neighborhood approval. The current case by case negotiation system is meeting much resistance. Neither neighborhood groups nor the BRA will let developers have free reign over Boston.

A rezoning process will let neighborhood groups, BRA staff, and land owners determine land uses in advance of development proposals rather than discussing what is appropriate only after a land owner makes a proposal. A process that results in a plan, laying out where new development occurs and where preservation is important, is necessary to ease the tension between Boston's strong movement for further development, yet, commitment to preservation. The goal is a land use plan that all interested parties can support.

Without a planning process, the BRA has not been able to define specific problems with the Zoning Code. The BRA also does not comprehensively know which land uses should be encouraged or prohibited, an appropriate location for those land uses, and the lot and building dimensional characteristics that compliment those land uses. Before redrafting the Zoning Code, the BRA should know which Zoning Code sections need revision, which land uses should be encouraged, which land uses should be replaced, which land uses need strict lot and building
dimensional regulations, and which land uses require flexible regulations.

After developing a land use plan, the second step is to create zoning districts that encourage and protect the land uses and densities spelled out in the plan. At this point, the BRA also establishes the lot and structure dimensional regulations that compliment the proposed land uses and densities and encourages the physical setting that characterizes each new zoning district. The present dimensional regulations must be discarded because the requirements reflect the land use densities and site layouts characteristic of the 1950 Boston plan. The goal is to create zoning districts that capture all the different community characters that make up Boston, encourage uniform regulation throughout each zoning district, are distinct and created only as needed, and reflect a realistic vision of what the Boston community is and strives to be.

Once the BRA has created the new zoning framework, the third step is to work with neighborhood groups applying the new zoning districts throughout each neighborhood in accordance with the land use plan. The goal is to complete the rezoning process so that each neighborhood is rezoned to the acceptance of all interested parties and that the zoning is consistently applied throughout the entire city.

The City-Wide Land Use Plan:

Undoubtedly the current IPOD process will continue. The IPOD process should become a specific step in the redrafting process.
The IPOD process can continue to provide temporary zoning guidelines, but, the BRA has not committed to a subsequent step in the rezoning process. The BRA should shift the focus of the IPOD process into the completion of a land use plan. The danger a lack of an adopted writing process presents is pressure for zoning reform can cause IPODs to become the permanent zoning. As Coyle says regarding the proposed downtown zoning, "the temporary status of the new plan was misleading because an amendment at any time could make the rules permanent" (Boston Globe 4/9/87). Thus, permanent zoning regulations could be passed without any attempt to define why the Zoning Code is inappropriate for a neighborhood or any insight if the recommendations are valid solutions.

The BRA should continue to develop and seek adoption of IPOD amendments for each Boston neighborhood. The IPOD amendment helps serve as a land use plan stating which uses are allowable within the neighborhood. The neighborhood's role is to state neighborhood interests regarding land uses and where they are located. The BRA's role is to represent city-wide needs, such as airport related uses in East Boston or institutional uses throughout Allston-Brighton, which are land uses neighborhoods often reject. The IPOD amendments, however, should not be translated into permanent zoning.

The IPOD process helps determine what the BRA and neighborhood groups find are exceptable levels of residential and commercial densities within each neighborhood. The BRA has
agreed to complete a land use survey for each neighborhood finding which land uses are occurring and where. The land use survey further serves as a basis for a land use plan. A final land use plan lays out the density of certain uses at specific locations. The plan will outline, define, and locate within the neighborhood general land use categories, such as: single family, two family, apartment residential districts, neighborhood, regional business districts, manufacturing districts. The general land use categories are clearly differentiated by their type, and density of, dwelling units and nonresidential land uses and are a basis for further rezoning. The general land use categories also serve as preliminary new zoning districts.

Create New Zoning Districts:

Once an IPOD is adopted, a land use survey completed, general land use categories outlined, and a land use plan is approved, neighborhood committees and BRA staff work together beginning the actual rezoning process. At this point, the sections of Boston designated for redevelopment and the areas selected for preservation are clearly laid out in the land use plan. The next step is to create the zoning districts that will aid in implementing redevelopment and preservation. The BRA's task is to create new zoning districts specifying land uses and accompanying dimensional regulations.

Starting with the general land use categories, the plan specifies how each parcel in a neighborhood fits into one of the
general descriptions. Each parcel is categorized based on what the neighborhood committee and the BRA view the future use for that parcel, not necessarily what is the current use.

Once each parcel is put into a general land use category, the BRA analyzes the classifications on a city-wide basis. While several neighborhoods will label parcels for single family use, the actual lot and structure physical dimensions will vary among, and within, neighborhoods. The BRA determines how properties differ within a general land use category. Each category, such as single family homes, will contain several different types of single family homes that are clearly differentiated by the site layouts and type of structure. Parcels are sorted by the physical dimensions of the property and the structures. A key distinguishing feature for differentiating land uses within a general land use category is dwelling unit density. For example, single family homes can come one unit per acre or ten units per acre.

Within each general land use category, the BRA develops ranges of dimensions that characterize how existing, or proposed, uses are different within each general land use category. Once the general land use categories are broken down based on physical dimensions, the BRA establishes specific zoning districts developed as refined land use restrictions and differentiated dimensional regulations. This process yields new lot and structure dimensional regulations coordinated with a land use plan allowing the BRA to discard the current 32
districts based on the 1950 land use plan.

I have several recommendations as the BRA begins creating specific zoning districts and accompanying dimensional regulations. My efforts concentrate on the Zoning Code sections that the variance analysis concludes are consistently unmet by landowners. My recommendations also pertain primarily to residential zoning districts. The variance analysis is most helpful regarding cases involving housing uses which is a major portion of development projects. Downtown zoning is considerably more complex and beyond the scope of these examples.

The dimensional regulations guide future residential development towards maintaining and/or creating the physical building arrangements reflecting a vision of neighborhood that comes out of creating a community plan. Each dimensional regulation needs coordination to regulate two issues: the structure and the space around the structure. The lot and structure dimensional regulations also could focus on objectives for two different types of requirements: one set of flexible dimensional regulations that regulates parcels where the structure and site design do not need to specifically relate to the surrounding environment, such as future development along Columbia Point, remaining West End parcels, or the current Fan Pier development. A second set of less flexible dimensional regulations could strictly define how a structure looks and fits into the existing environment appropriate for most of East
Boston, South End, or Charlestown.

The following examples explain how the BRA could revise the current flexible design dimensional regulations. In general, the BRA could maintain and revise the FAR, per unit, and yard requirements rather than institutionalizing new regulatory techniques.

The FAR should be reformulated within each zoning district. The 1950's planners replaced height limits and "building coverage ratio"* with the FAR and made the FAR limit lower than existing buildings. In recent years, the BRA has reestablished height limits. Height limits restrict how high a structure is built without restricting the FAR which still can regulate the overall structure bulk. The current FAR's, however, allow a land owner less floor area than many existing structures and less than many new developments going through the appeal process. If building rehabilitation and new construction are encouraged, the FAR needs adjustment reflecting the level of building density outlined in the land use plan. The BRA should consider increasing the FAR where existing structures will be redeveloped and formulate new FAR's that appropriately fit the specified land uses of areas designated for new development.

The open space per unit requirement needs revision. The open space requirement should compliment factors such as the residential unit density and the combination of FAR and height.

*The maximum proportion of the lot that can be covered with a building foot print. A zoning district with a 35% building area requirement means the building foot print can not exceed 35% of the total lot.
limits. The current open space requirement is based on considerably larger average household sizes and suburban site layouts. The new open space requirement should reflect whatever character makes up each new zoning district. The current open space requirement was designed to compliment the FAR without a height limit. 1950's planners intended that as more residential units were considered for a site, the structure design would be pushed higher to free up more land for open space. The new height limits restrict how much open space can be generated and must account for that limitation.

If the BRA keeps the open space per unit requirement around existing structures, the regulation should be reduced after determining the appropriate residential unit density. Many existing properties can not provide the amount of open space per unit the Zoning Code demands and are unable to generate more open space by expanding the site through the acquisition of surrounding parcels.

The lot area per unit requirement needs adjustment. The current lot area requirements also are modelled after typical 1950's suburban lot sizes. The new lot area requirements should reflect whatever character the new zoning districts encourage. If the BRA utilizes the lot area per unit regulation around existing structures, the regulation should be reduced. Most existing structures are on long standing lot layouts and land owners can not realistically expand lot sizes. The lot area regulation reflects the residential unit density that
characterizes each zoning district and requires enough lot area per unit to allow that unit density.

I have no recommendation regarding the off-street parking per unit restriction. Traffic and parking problems within Boston are beyond the scope of this particular study.

The yard and minimum lot size requirements need adjustment. The present requirements also are modelled after 1950's suburban development and do not fit Boston's urban character. The yard and lot size requirements within areas of new development should reflect whatever character the zoning districts regulate. The yard and lot size requirements within areas of existing structures should account for the existing character.

The BRA may find that less flexible dimensional regulations are more suitable for some zoning districts. The following examples explain how the BRA could alter the current dimensional regulations creating zoning districts that characterize residential areas within neighborhoods, preserving an existing character rather than trying to create a new atmosphere. Parcels in less flexible zoning districts would not be open to unique design and would reflect the surrounding structures and lots. Less flexible districts are useful when the lot size is already defined, such as in fill structures in South Boston, or large parcels that could be subdivided resembling structures on surrounding parcels, such as remaining South End vacant urban renewal properties.

The FAR requirement will need adjustment, or, could be
eliminated. IF the BRA preserves the FAR, the FAR should be increased to reflect the surrounding floor areas. The BRA could also eliminate the FAR and use a building coverage ratio. The building coverage ratio will specify the percentage of the lot covered by a structure and the height limit would restrict how high the structure is built. A combination of a height and building coverage limits regulate the structure bulk similar to the FAR, but, eliminates the flexibility of shaping the structure on a site that FAR allows. Height and building coverage limits also do not regulate the floor area separately from the building envelope which is possible using a combination of height and FAR limits.

If the BRA keeps the FAR, then the open space per unit and lot area per unit requirements need adjustment. The open space and lot area requirements should reflect the character that the zone preserves. If the BRA utilizes a building coverage ratio, the open space per unit requirement could be eliminated. The amount of open space is clearly defined by the building coverage ratio. Other regulations define how the open space is used, such as the yard and parking requirements.

Zoning districts that characteristically have a specified number of dwelling units per structure and a consistent lot size should have a maximum number of allowable units per structure for a specified lot size. The current Zoning Code only allows one unit per parcel in a single family district and two units per parcel in a two family district, with certain exceptions.
The same concept could be carried out for three and four unit structures throughout the South End or South Boston where residential conversions, adding more units within existing structures, is an issue. Maximum number of dwelling unit limits restrict the extent of residential conversion to a predictable level of unit density.

Within apartment oriented zoning districts which regulate structures with many units, such as the Commonwealth Avenue corridor in Allston-Brighton, specifying the maximum number of units is difficult unless the lot and structure sizes are predictable. At this point, the BRA may choose to utilize the lot area per unit regulation.

Similar to the flexible dimensional regulations, the yard requirements need adjustment. The yard requirements help position where structures fit on a parcel for either the FAR or the building coverage ratio and should reflect existing structures that characterize the zoning district.

The above recommendations are intended to clarify what is allowed and prohibited by the Zoning Code. If Coyle is serious about returning "to a period which was a golden age in Boston's past" (Boston Globe 4/9/87) the BRA will write a Zoning Code that clearly and simply tells how each and every parcel can be utilized. The new Zoning Code reflects the city that Boston is and the BRA, working with community groups, determines Boston should strive to become. That vision can be developed through a planning process.
A new Zoning Code will relieve the Board from reviewing projects the Zoning Code should allow by right. The Board can then concentrate on exceptional hardships feeling comfortable denying any variance request that is not a hardship. Because of Boston's economic boom, pressure to allow large scale development has called for the reestablishment of strict land use controls throughout many neighborhoods that characterize a return to the 1924 Zoning Code. The need for strict land use controls reflects neighborhoods' desire to limit, rather than stimulate, development activity within a specific planning framework. Once all interested parties determine an acceptable density level of land uses within each zoning district, the BRA can write a Zoning Code that allows the market to operate freely within the restrictions of the planning model. Developing and implementing a land use plan, with consideration for the needs of the market, will free Boston of its current problem that planning is not playing a proactive role comprehensively shaping Boston's future as planners are settling to be reactive as the market incrementally forces land use issues to be addressed.
Appendix:
Appendix I:
The Variance Cases Analysis Methodology

The purpose of the variance cases analysis was to gain insight regarding why the Boston Zoning Code has many building permits refused by the Boston Inspectional Services Department (building department), yet, ultimately approved by the zoning Board of Appeal (Board). Specifically, I intended to determine trends that occur regarding zoning appeal cases. The BRA is interested in defining trends that are unique to a location within Boston or a typical reoccurring city-wide case. The data is currently stored in file folders and not retrievable without dedicating numerous staff hours to a single inquiry. The variance cases analysis utilized an IBM XT computer and Dbase III data management software to store and sort the zoning variance case data. The intent is that one final time consuming data entry would allow numerous future instantaneous inquiries after variance cases are input into a computer file.

Dbase III computer software allows easy organization and manipulation of the large data set. The data set consisted of 1,666 appeal cases filed with the Board and ruled on by the Board from January 1985 to mid-March 1987. The cases were entered via Dbase III software as individual records.

Dbase III allows the user to sort data for specific conditions. I completed numerous sorts by different locations and types of projects. Locational sorts were completed for each neighborhood, sub-neighborhood, and zoning district. Other breakdowns examined what the appellant proposed to do and the land uses involved with each project.

Sixty three variables were recorded for each case. The variables fit into six categories: A) Case Identification; B) Locational; C) Property Description; D) Possible Zoning Code Violations; E) BRA and Board Decisions; and F) Comments. The following is a detailed description of each variable and how the information was recorded.

The first item listed is the variable name. The second item listed in parentheses is the variable name as entered in Dbase III, whether the variable is recorded as Characters (C), Numerical (N), or Date (D) and how many characters within the field*. The third item is a description of the data and any data codes utilized. The fourth item is a description of the quality of the data.

*Whenever character or date information is not available, the field is left blank. If numerical information is not available, "-1" is inserted as a missing value flag. Few numerical fields consistently lack data. If so, the data problem is noted for each variable in Section A) Case Identification Variables.
A) Case Identification Variables:

(* all character variables are entered completely in upper case lettering)

1) CASE NUMBER (CASENUMBER,N,5): The Board identification number unique to each appeal case. The data is complete, accurate, and retrieved from the BRA zoning department files.

2) HEARING DATE (HRINGDATE,D,8): The date the appellant appears before the zoning Board of Appeal and a decision is reached regarding the case. The data is complete, accurate, and retrieved from the BRA zoning department files.

3) APPLICANT (APPLICANT,C,30): The last name of the individual, or, the association seeking a variance. The data is complete, accurate, and retrieved from the BRA zoning department files.

4) FIRST NAME (FNAME,C,20): The first name of a person seeking a variance. Only used if APPLICANT is an individual, not an association. The data is complete, accurate, and retrieved from the BRA zoning department files.

B) Locational Variables:

(* The street address consists of four parts. A four part address was selected to facilitate computer address matching between this data base and the census DIME file. A four part address also allows easier Dbase III sorts)

5) STREET NUMBER (STRTNUMBER,N,6): The assigned street number of the parcel(s) involved in the appeal. The first part of a four part street address (including variables 5-8). The data is complete, accurate, and retrieved from the BRA zoning department files.

6) STREET PREFIX (STRTPREFIX,C,8): The directional part of the address such as NORTH, SOUTH, EAST, WEST. The second part of a four part street address (including variables 5-8). The data is complete, accurate, and retrieved from the BRA zoning department files.

7) STREET NAME (STREETNAME,C,20): The street name portion of the address. The third part of a four part street address (including variables 5-8). The data is complete, accurate, and retrieved from the BRA zoning department files.

8) STREET TYPE (STREETTYPE,C,8): The street classification such as STREET, AVENUE, BOULEVARD, WAY, PARK, SQUARE. The fourth part of a four part address (including variables 5-8). The data is complete, accurate, and retrieved from the BRA zoning department files.
9) NEIGHBORHOOD (NEIGHBRHD,N,3): The one of sixteen BRA designated neighborhoods where the property is located. The data is coded by number, 1-16, as follows:

1 = East Boston  
2 = Charlestown  
3 = South Boston  
4 = Central Boston  
5 = Back Bay/Beacon Hill  
6 = South End  
7 = Fenway/Kenmore  
8 = Allston/Brighton  
9 = Jamaica Plain  
10 = Roxbury  
11 = South Dorchester  
12 = Roslindale  
13 = West Roxbury  
14 = Hyde Park  
15 = Mattapan/Franklin  
16 = North Dorchester

The data is complete, accurate, and retrieved from the BRA research department 1980 census information (NICKEL file).

10) SUB-NEIGHBORHOOD (SUBNGHBRHD,N,3): The one of sixty-four BRA designated sub-neighborhoods where the property is located. See appendix II for sub-neighborhood list. The data is complete, accurate, and retrieved from the BRA research department files.

11) WARD (WARD,N,3): The ward where the property is located. The data is complete, accurate, and retrieved from the BRA zoning department files.

12) PRECINCT (PRECINCT,N,3): The precinct where the property is located. The data is complete, accurate, and retrieved from the BRA research department 1980 census information (NICKEL file).

13) CENSUS TRACT (CENSUSTRAC,N,8): The census tract where the property is located. The data is complete, accurate, and retrieved from the BRA research department 1980 census information (NICKEL file).

14) CENSUS BLOCK (CENSUSBLK,N,4): The census block where the property is located. The data is semi-complete, accurate, and retrieved from the BRA research department 1980 census information (NICKEL file). The NICKEL file does not list all complete addresses, limiting the number of census blocks that are easily determinable.

15) PARCEL NUMBER (PARCELNUMB,N,6): One of possibly many parcel numbers that are part of the property involved in the variance request. No parcel number data was easily available or recorded.

C) Property Description Variables:

16) EXISTING ZONING (EXISTZONIN,C,10): The zoning district regulating the property involved in the variance request as designated by the Boston Zoning Code.
If a project involves two or more zoning districts, the variable is coded as "33"

The data is complete, accurate, and retrieved from the BRA zoning department files.

17) ESTIMATED COST (ESTCOST,N,10): The estimated project cost of the proposed variance. The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

18) EXISTING USE (EXISTUSE,N,3): A coded land use classification of what the property is used for before the applicant filed for a variance. The classifications are based on general land use classifications of Boston Zoning Code Section 8. The same classifications used here are used for PROPOSED USE. The classifications:

1 = Housing  6 = Entertainment
2 = Office    7 = Recreation
3 = Retail   8 = Mixed Use
4 = Commercial  9 = Parking
5 = Education/ Institutional 10 = Vacant Land
                  11 = Other Land Use
                    -1 = Unknown Land Use

The data is semi-complete, semi-accurate, and retrieved from the BRA zoning department files.

19) PROPOSED USE (PRPSEDUSE,N,3): A coded land use classification of what the property is used for before the applicant filed for a variance. The classifications are based on general land use classifications of Boston Zoning Code Section 8. The same classifications used here are used for EXISTING USE. The classifications:

1 = Housing  6 = Entertainment
2 = Office    7 = Recreation
3 = Retail   8 = Mixed Use
4 = Commercial  9 = Parking
5 = Education/ Institutional 10 = Vacant Land
                  11 = Other Land Use
                    -1 = Unknown Land Use
The data is semi-complete, semi-accurate, and retrieved from the BRA zoning department files.

20) CHANGE OCCUPANCY (CHNGEOCCUP,N,2): Does the case involve a change in building occupancy? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files. Also see CHANGE USE.

21) CHANGE USE (CHNGEUSE,N,2): Does the case involve a change in building use? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files. This variable is essentially the same as CHANGE OCCUPANCY because Inspectional Services does not differentiate between the two variables. Almost all cases involving either variable are as coded as a CHANGE OCCUPANCY not a CHANGE USE.

22) STRUCTURE ADDITION (ADDITION,N,2): Does the case involve a building addition? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

23) ERECT A STRUCTURE (ERECTSTURC,N,2): Does the case involve erecting a structure? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

24) ERECT AN AUXILIARY STRUCTURE (ERECTAUXIL,N,2): Does the case involve erecting an auxiliary structure? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

25) LEGALIZATION (LEGALIZE,N,2): Does the case involve a building use legalization? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

26) SUBDIVISION (SUBDIVISION,N,2): Does the case involve subdividing property? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

27) PARKING (PARKING,N,2): Does the case involve a parking related use? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
The data is semi-complete, accurate, and retrieved from the BRA zoning department files.
28) MISCELLANEOUS (MISCPURPOS,N,2): Does the case involve a miscellaneous purpose other than the eight listed above? Recorded as:
   1 = NO  2 = YES  -1 = DO NOT KNOW
   The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

29) EXISTING NUMBER OF RESIDENTIAL UNITS (EXISTUNITS,N,5): The number of residential units that were on the property before the applicant filed for a variance. The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

30) PROPOSED NUMBER OF RESIDENTIAL UNITS (PRPSDUNITS,N,5): The number of residential units proposed for the property if the Board approves the variance. The data is semi-complete, accurate, and retrieved from the BRA zoning department files.

31) EXISTING STRUCTURE SQUARE FOOTAGE (EXISTSQFT,N,8): The estimated building(s) square footage before the applicant filed for a variance. The data is semi-complete, highly inaccurate, and estimated from the BRA zoning department files.

32) PROPOSED STRUCTURE SQUARE FOOTAGE (PRPSDSQFT,N,8): The estimated building(s) square footage proposed if the Board approves the variance. The data is semi-complete, highly inaccurate, and estimated from the BRA zoning department files.

D) Possible Zoning Code Violations:

33) SECTION 8-7: USE ITEM VIOLATION 1 (USEITEM1,N,2)*: Does the case involve a code section 8 use item violation? Recorded as: 1 = NO  3 = CONDITIONAL USE  4 = FORBIDDEN USE  -1 = DO NOT KNOW
   The data is complete, accurate, and retrieved from the BRA zoning department files.

34) USE ITEM IN VIOLATION 1 (UI1,N,4)*: If USEITEM1 = 3 or 4, UI1 lists the actual use item number that needs a variance. The data is complete, accurate, and retrieved from the BRA zoning department files. The use item numbers are explained in the Boston Zoning Code Section 8-7: Use Regulations.

35) SECTION 8-7: USE ITEM VIOLATION 2 (USEITEM2,N,2)*: Does the case involve a code section 8 use item violation? Recorded as: 1 = NO  3 = CONDITIONAL USE  4 = FORBIDDEN USE  -1 = DO NOT KNOW
   The data is complete, accurate, and retrieved from the BRA zoning department files.

36) USE ITEM IN VIOLATION 2 (UI2,N,4)*: If USEITEM2 = 3 or 4, UI2
lists the actual use item number that needs a variance. The data is complete, accurate, and retrieved from the BRA zoning department files.

37) SECTION 8-7: USE ITEM VIOLATION 3 (USEITEM3,N,2)*: Does the case involve a code section 8 use item violation? Recorded as: 1 = NO 2 = CONDITIONAL USE 4 = FORBIDDEN USE -1 = DO NOT KNOW The data is complete, accurate, and retrieved from the BRA zoning department files.

38) USE ITEM IN VIOLATION 3 (UI3,N,4)*: If USEITEM3 = 3 or 4, UI3 lists the actual use item number that needs a variance. The data is complete, accurate, and retrieved from the BRA zoning department files.

39) SECTION 7-4: ALTER A VARIANCE (VARIANCE74,N,2): Does the case involve a code section 7-4 violation? Recorded as: 1 = No 2 = YES -1 = DO NOT KNOW The data is complete, accurate, and retrieved from the BRA zoning department files.

40) SECTION 9-1: EXTENDING NONCONFORMING USE (NONCONF91,N,2): Does the case involve a code section 9-1 violation? Recorded as: 1 = NO 2 = YES -1 = DO NOT KNOW The data is complete, accurate, and retrieved from the BRA zoning department files.

41) SECTION 9-2: CHANGE IN NONCONFORMING USE (NONCONF92,N,2): Does the case involve a code section 9-2 violation? Recorded as: 1 = NO 2 = YES -1 = DO NOT KNOW The data is complete, accurate, and retrieved from the BRA zoning department files.

42) SECTION 10-1: OFF-STREET PARKING (OFFPKG101,N,2): Does the case involve a code section 10-1 violation? Recorded as: 1 = NO 2 = YES -1 = DO NOT KNOW The data is complete, accurate, and retrieved from the BRA zoning department files.

43) SECTION 14-1: MINIMUM LOT SIZE (LOTSZE141,N,2): Does the case involve a code section 14-1 violation? Recorded as: 1 = NO 2 = YES -1 = DO NOT KNOW The data is complete, accurate, and retrieved from the BRA zoning department files.

* Variables 33-34, 35-36, 37-38 are the same combinations. A variance or conditional use request can have more than one use item involved in the appeal. This analysis allows up to three use item variables to be recorded. If more are involved, variable 58) Other violations is coded as "Yes."
44) SECTION 14-2: LOT AREA PER DWELLING UNIT (LOTSZE142,N,2): Does the case involve a code section 14-2 violation? Recorded as:  
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

45) SECTION 14-3: LOT WIDTH (LOTSZE143,N,2): Does the case involve a code section 14-3 violation? Recorded as: 
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

46) SECTION 14-4: LOT FRONTAGE (LOTSZE144,N,2): Does the case involve a code section 14-4 violation? Recorded as:  
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

47) SECTION 15-1: FLOOR AREA RATIO (FAR151,N,2): Does the case involve a code section 15-1 violation? Recorded as:  
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

48) SECTION 16-1: MAXIMUM BUILDING HEIGHT (HEIGHT161,N,2): Does the case involve a code section 16-1 violation? Recorded as: 
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

49) SECTION 16-8: RESTRICTED ROOF DISTRICT (ROOF168,N,2): Does the case involve a code section 16-8 violation? Recorded as:  
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

50) SECTION 17-1: OPEN SPACE PER UNIT (OSPACE171,N,2): Does the case involve a code section 17-1 violation? Recorded as: 
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

51) SECTION 18-1: FRONT YARD REQUIREMENT (FYARD181,N,2): Does the case involve a code section 18-1 violation? Recorded as:  
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

52) SECTION 19-1: SIDE YARD REQUIREMENT (SYARD191,N,2): Does the case involve a code section 19-1 violation? Recorded as: 
1 = NO  2 = YES  -1 = DO NOT KNOW  
The data is complete, accurate, and retrieved from the BRA zoning department files.

53) SECTION 20-1: REAR YARD REQUIREMENT (RYARD201,N,2): Does the
case involve a code section 20-1 violation? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

54) SECTION 21-1: SET BACK REQUIREMENT (SETBACK211,N,2): Does the case involve a code section 21-1 violation? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

55) SECTION 23-1: OFF-STREET PARKING REQUIREMENT (OFFPKG231,N,2): Does the case involve a code section 23-1 violation? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

56) SECTION 24-1: OFF-STREET LOADING REQUIREMENT (OFFLOAD241,N,2): Does the case involve a code section 24-1 violation? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

57) SECTION 27: IPOD PERMIT REQUIREMENT (IPOD,N,2): Does the case involve an IPOD permit? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

58) OTHER VIOLATIONS (OTHERVIOLA,N,2): Does the case involve any violations other than those previously mentioned? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

E) BRA and Board of Appeal Decisions:

59) DESIGN REVIEW REQUIREMENT (DESIGNREV,N,3): Does the case involve design review? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

60) DESIGN REVIEW COMPLETED (DSCOMPLETD,N,3): If design review was required, has the design review been completed? Recorded as:
1 = NO  2 = YES  -1 = DO NOT KNOW
The data is complete, accurate, and retrieved from the BRA zoning department files.

61) BRA RECOMMENDATION (BRARECOM,N,2): The BRA staff recommendation regarding the case. The recommendations are coded, using the same codes as BOARDDECIS. Recorded as:
1 = Approved as Submitted  6 = Deferred Decision
2 = Approved with Provisions  7 = Case Withdrawn
4 = Denied without Prejudice  
33 = Two Different Decisions

5 = Denial  
-1 = Decision Unknown

The data is complete, accurate, and retrieved from the BRA zoning department files.

BOARD OF APPEAL DECISION (BOARDDECIS,N,2): The Board decision regarding the case. The decisions are coded, using the same codes as BRARECOM. Recorded as:

1 = Approved as Submitted
2 = Approved with Provisions
4 = Denied without Prejudice
5 = Denial

6 = Deferred Decision
7 = Case Withdrawn
33 = Two Different Decisions

-1 = Decision Unknown

The data is complete, accurate, and retrieved from the BRA zoning department files.

F) Comments:

63) COMMENTS (COMMENTS,C,254): Any additional information regarding the case.
Appendix II:
List of BRA Designated Sub-Neighborhoods

<table>
<thead>
<tr>
<th>Sub-Neighborhood Number</th>
<th>Sub-Neighborhood Area Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Allston/Brighton: Allston</td>
</tr>
<tr>
<td>2</td>
<td>Allston/Brighton: Brighton</td>
</tr>
<tr>
<td>3</td>
<td>Allston/Brighton: Commonwealth</td>
</tr>
<tr>
<td>4</td>
<td>Back Bay/Beacon Hill</td>
</tr>
<tr>
<td>5</td>
<td>Charlestown: Medford Street, The Neck</td>
</tr>
<tr>
<td>6</td>
<td>Charlestown: Thompson Square, Bunker Hill, Town Hill, Monument</td>
</tr>
<tr>
<td>7</td>
<td>Chinatown/South Cove/Bay Village</td>
</tr>
<tr>
<td>8</td>
<td>North Dorchester: Columbia, Savin Hill, Columbia Point</td>
</tr>
<tr>
<td>9</td>
<td>North Dorchester: Dudley, Brunswick King</td>
</tr>
<tr>
<td>10</td>
<td>North Dorchester: Uphams Corner, Jones Hill</td>
</tr>
<tr>
<td>11</td>
<td>South Dorchester: Ashmont</td>
</tr>
<tr>
<td>12</td>
<td>South Dorchester: Bowdoin North, Mt. Bowdoin</td>
</tr>
<tr>
<td>13</td>
<td>South Dorchester: Codman Square, East We Can, East Codman Hill,</td>
</tr>
<tr>
<td>14</td>
<td>South Dorchester: East Lower Hills, Cedar Grove</td>
</tr>
<tr>
<td>15</td>
<td>South Dorchester: Fields Corner East</td>
</tr>
<tr>
<td>16</td>
<td>South Dorchester: Fields Corner West</td>
</tr>
<tr>
<td>17</td>
<td>South Dorchester: Meeting House Hill</td>
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<tr>
<td>18</td>
<td>South Dorchester: Neponset, Port Norfolk</td>
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<tr>
<td>19</td>
<td>South Dorchester: St. Marks</td>
</tr>
<tr>
<td>20</td>
<td>South Dorchester: West We Can, West Codman Hill, West Lower Mills</td>
</tr>
<tr>
<td>21</td>
<td>Downtown/Central/West End</td>
</tr>
<tr>
<td>22</td>
<td>Not Used</td>
</tr>
<tr>
<td>23</td>
<td>East Boston: Central &amp; Maverick Squares, Paris Street Flats</td>
</tr>
<tr>
<td></td>
<td>Location</td>
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</tr>
<tr>
<td>24</td>
<td>East Boston: Eagle Hill</td>
</tr>
<tr>
<td>25</td>
<td>East Boston: Harbor View, Orient Heights</td>
</tr>
<tr>
<td>26</td>
<td>East Boston: Jeffries Point, Airport</td>
</tr>
<tr>
<td>27</td>
<td>Fenway/Kenmore: Fenway</td>
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<tr>
<td>28</td>
<td>Fenway/Kenmore: Kenmore</td>
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<tr>
<td>29</td>
<td>Fenway/Kenmore: West Fens</td>
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<tr>
<td>30</td>
<td>Franklin Field: North</td>
</tr>
<tr>
<td>31</td>
<td>Franklin Field: South</td>
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<tr>
<td>33</td>
<td>Hyde Park: Fairmount Hills</td>
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<tr>
<td>34</td>
<td>Hyde Park: Georgetown</td>
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<tr>
<td>35</td>
<td>Hyde Park: Readville</td>
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<tr>
<td>36</td>
<td>Hyde Park: Stony Brook, Cleary Square</td>
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<tr>
<td>37</td>
<td>Hyde Park: West Street, River Street</td>
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<td>38</td>
<td>Jamaica Plain: Eggleston Square</td>
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<tr>
<td>39</td>
<td>Jamaica Plain: Forest Hills, Woodbourne</td>
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<tr>
<td>40</td>
<td>Jamaica Plain: Hyde Square</td>
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<tr>
<td>41</td>
<td>Jamaica Plain: Jamaica Central, Sumner Hill, Jamaica South, Stony Brook</td>
</tr>
<tr>
<td>42</td>
<td>Jamaica Plain: Jamaica Hills</td>
</tr>
<tr>
<td>43</td>
<td>Mattapan: Southern Mattapan</td>
</tr>
<tr>
<td>44</td>
<td>Mattapan: Wellington Hill</td>
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<tr>
<td>45</td>
<td>Mission Hill: Medical Area</td>
</tr>
<tr>
<td>46</td>
<td>Mission Hill: Mission Hill Projects</td>
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<tr>
<td>47</td>
<td>Mission Hill: Top of the Hill, Back of the Hill, RTH, Delle Ave, Terrace</td>
</tr>
<tr>
<td>48</td>
<td>North End/Waterfront</td>
</tr>
<tr>
<td>49</td>
<td>Roslindale: Centre-South</td>
</tr>
<tr>
<td>50</td>
<td>Roslindale: Lower Washington, Mt. Hope</td>
</tr>
<tr>
<td>51</td>
<td>Roslindale: Metropolitan Hill, Beech</td>
</tr>
<tr>
<td>52</td>
<td>Roxbury: Highland Park</td>
</tr>
<tr>
<td>53</td>
<td>Roxbury: Lower Roxbury</td>
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<tr>
<td>54</td>
<td>Roxbury: Sav-Mor</td>
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<tr>
<td>55</td>
<td>Roxbury: Washington Park</td>
</tr>
<tr>
<td>56</td>
<td>South Boston: City Point</td>
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<tr>
<td>57</td>
<td>South Boston: Columbus Park, Andrew Square</td>
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<tr>
<td>Page</td>
<td>Location</td>
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<td>---------------------------------</td>
</tr>
<tr>
<td>58</td>
<td>South Boston: D Street, West Boardway, Northern Section</td>
</tr>
<tr>
<td>59</td>
<td>Not Used</td>
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<tr>
<td>60</td>
<td>South Boston: Telegraph Hill</td>
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<tr>
<td>61</td>
<td>South End</td>
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<tr>
<td>62</td>
<td>West Roxbury: Bellevue Hill</td>
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<tr>
<td>63</td>
<td>West Roxbury: Brook Farm Parkway</td>
</tr>
<tr>
<td>64</td>
<td>West Roxbury: Upper Washington, Spring</td>
</tr>
</tbody>
</table>
Bibliography:


Boston Zoning Commission. Minutes from hearing before the Zoning Commission regarding proposed zoning regulations, Boston, 30 March 1960.

Boston Zoning Commission. Minutes from hearing before the Zoning Commission regarding proposed zoning regulations, Boston, 10 May 1961.


