

Agenda

THURMONT BOARD OF APPEALS MEETING

04/13/17

7:00 PM

Thurmont Town Office, Meeting Room

Agenda topics

- 1.) CASE #A17-01 – MARK CLABAUGH -
14 WEST MAIN STREET

Minutes from April 13, 2017 Board of Appeals Meeting

A Thurmont Board of Appeals Meeting was held on Thursday, April 13, 2017 at 7:00 p.m. The following were present: Chairman, Kirby Delauter; Commission Members, Jason West, John Bean, Richard Lee, and Carol Robertson; CAO, Jim Humerick; Sr. Administrative Assistant, Becky Long; Zoning & Utilities Inspector, Kelly Duty; Town Planner, Chris Jakubiak; Mark Clabaugh, John Kinnaird, and Megan Dewees.

Case #A17-01 – Mark Clabaugh – 14 West Main Street

Chairman Delauter said we have one case this evening, Case A17-01 Mark Clabaugh at 14 West Main Street (see attached). First if we could hear from the Staff, Mr. Jakubiak if you want to hit some highlights or go over whatever you feel is necessary.

Mr. Jakubiak said I put some of the facts on the table for us and I asked Kelly to follow-up and to introduce some additional facts as may be necessary. First I'm going to be reading from the Staff Memorandum dated April 7, 2017 (see attached). The lot is 22' wide, adjoins its neighbor at 12 W. Main Street and they share a party wall. The front portion of the house is essentially as wide as the lot, it's right up on the street and is as wide as the lot, give or take about a ½ foot. The house is narrower as it extends rearward. The aerial photograph that was prepared showing 14 W. Main is highlighted in yellow and indicates that, the house is kind of shaped like an (L) with the short leg facing W. Main Street. So, in other words there is an open space between 16 W. Main St. and 14 W. Main St., a narrow lawn area. The addition is required to be set back 10' from each side lot line. Mr. Clabaugh is requesting an 8' variance on the eastern side to place sunroom 2' from the lot line. He is requesting a 1' on the west side, the 16 W. Main side, to place the sunroom 9' from the lot line. To summarize: the lot is 22' wide, the sunroom addition would be 11' and be place 2' from the eastern lot line and 9' from the western lot line. Lastly, within that 9' side yard the applicant would build a 4' landing and stairs that would lead essentially up to the front of the lot. Section 5.2B of the Zoning Code allows uncovered stairs and landings to project up to 3' into the side yard. The applicant's landing and stairs would project a total of 5' into that side yard. So, I would encourage the Board to address that standard too, that incursion as well. Should you approve this variance, include that reference to the landing as well. This memo provides a summary of my considerations of the factors and which I had available to me this same material you have. I didn't have available to me the testimony that we'll hear tonight that you'll benefit from.

The Chairman asked Mr. Clabaugh to come up.

Mr. Clabaugh said the only thing I have to say is I could drop those stairs back to 3'. The reason why I asked for 4' is in case I have to put the stair lift for my father. That's mainly why I am putting this on, to give him a little bit of extra room, because the parking lot is in the back and I don't want him parking on the street, that's mainly why I'm doing this.

Chairman Delauter said so, instead of extending 5' you'll go only 4, is that what you're saying? Mr. Clabaugh said what Mr. Jakubiak had said about the stairs, I had requested for 4', the landing and the 4' stairs, I could probably drop that back to 3.

Commission member Bean said that on the drawing the steps project towards W. Main Street and there's a sidewalk that runs be that house and 16. Mr. Clabaugh said I own 16 and 14 and there's a

sidewalk that goes down between there. Mr. Bean said if you were to say you said want your father to be able to access, possibly even with a lift of some sort in the future, and be able to park in the rear of the house I would think that your steps and landing could come off of the back of that. I don't know how much room you have. Mr. Clabaugh said what happened when Doc Callan owned them she took off of 14 and added to 16 to get the square footage to build the apartments. That's why it's more or less what I sketched out there. I let the tenants park on 16, because I have a bigger parking lot. 14 W. Main St. is more or less setting on its own property, except for that little (L) shape, it does come out there, you can see where the dotted lines are, then all the rest of that goes to 16. As it stands right now, the steps coming off the back of it right now are on 16's property. I had an issue on Altamont Ave. and that was just a fiasco and I don't want to go thru this again. I lost my rear on that place, so that's why I want everything on the property of 14 W. Main St., so if anything would ever come, if I would get down and would have to sell one of the units I don't have that issue. Mr. Bean said just so I understand what you're saying, the concrete sidewalk that runs between the two is on 16's property. Mr. Clabaugh said correct and 14 runs right against it. The property line is actually the edge of the concrete. Mr. Jakubiak said if you're walking alongside the house at 14 in the grassy side yard to W. Main St., to the front you would literally bump into the wing of your house, the back of your house. So, you have to step onto the sidewalk, which is on 16, and make a right to walk up to 14. Mr. Clabaugh said it's my ground but a lot of people use that alley to go up to Main St. from the parking lot, from Country Kitchen... they cut thru there, it's mine but what do you do. Mr. Jakubiak said I only mention that to help me to understand the relationship between how that building is. So, in that green space is where you would build your landing and steps. Mr. Clabaugh said I would probably just adjoin that with a piece of concrete, so it would be all level for him to walk on. He would come up on 16 and walk over to 14 and up the steps. Mr. Bean said the steps would go up to the sunroom, the stairs would come down to the landing to be poured and that landing would actually probably adjoin the existing sidewalk on 16 and they would have access both to the rearward and the frontward... Mr. Clabaugh said correct.

Commission member Robertson said I'm confused is the sunroom ground level or is it up on the upper level. Mr. Clabaugh said it's going to be up, it's actually the first floor coming out, because of the grade.

Commission member Lee said the only question I have is your neighbor at 12, because your sunroom is going to extend beyond, she extends a little bit beyond you now, but then your sunroom is gonna actually go beyond her and will be 2' away from the rear of her house. Mr. Clabaugh said that's Faye and she said whatever I want to do, she don't care. Mr. Lee asked Mr. Jakubiak do we need to have an approval from her to approve this. Mr. Jakubiak said you don't, this was properly notified, she had the opportunity to testify. Commission member West said 12 & 14 already adjoin anyway right? Mr. Clabaugh confirmed they do, 10, 12, & 14 they are like a row home. Mr. Lee said 14 is on the property line anyway, the (L) shaped part of it is touching the line in the front. Ms. Robertson said that could be a problem if someone else purchases 16 if he sells them independently, separately, there could be a potentially problem with 16 & 14. And you could have another problem between 12 & 14, if Mrs. Seiss attempts to sell her property at #12, then there's another problem and then you have 10 that's adjacent to it as well. Mr. Clabaugh said he didn't understand. Ms. Robertson said because 10, 12, & 14 are all connected and then Mrs. Seiss decides to sell her #12 to another individual there could be a future problem, because you are requesting to be only 2' from the property line. That's the variance that you are asking for is 2' and it could be a potential problem then for Mrs. Seiss to sell her property. Mr. Clabaugh said I would go from wall to wall, but there's an electric line coming down and they want it 2'

to work on the electric, so even if I moved the electric line and butted against Mrs. Seiss it would be just like the front of the house, it's all connected. Mr. Lee said doesn't this go back to the way these houses were built to start with? And if we allowed that, what you want now, somebody buying that property has to be aware that it exists and it has been approved in the past, so they would have to deal with it. None of this goes along with what our property lines are now, because the house sits right on the property line and if we approve it then that person that would move in would have to know that there was a variance given. Ms. Robertson asked, but do you want to perpetuate that? Mr. Bean said that that's the difficult part, we can't unchanged what's already been done, but do we want to continue with the same process... I too am, I want to do everything that we can to help you, but I also want to make sure that we're not setting ourselves up for scrutiny down the road or a hardship on either your part or Mrs. Seiss' part. I'm struggling with exactly how we can come to terms with that.

Chairman Delauter said the only issue would possibly be property value for her and she knows that going in right now. She would be here speaking about it if she was concerned about that and she's not. So, I don't really think that's my decision to make for her, that's her decision to make whether or not she wants to take that. And going forward if somebody comes in and says I'm gonna buy your property or buy her property they are going to look at the property and see the sunroom or not see the sunroom and know they adjoin. She's somewhat putting herself out there a little bit for the property value, but again if she were concerned I think she'd be here. Mr. Clabaugh said she told me she didn't care. The Chairman said the bottom line is if she were concerned and said look I really don't want this because it could ruin my property value. That's the only concern that I think that I would have, otherwise you're not doing anything different then what's already there.

Chairman Delauter asked is there was anyone here that want's to speak on this?

John Kinnaid said I previously owned property at 26 W. Main Street, which is just down the street from Mark's property, and all of those properties up there are built right to the line. That's the way they were built and I see no problem with allowing this, because historically it's like that. You're absolutely right if this would impact the property value at some point down the road that's an issue that the future property owner would have to deal with. But all the houses up there, you could reach out my house and touch the house next door on both sides, and everybody up there is accustomed to that and that's what they're used to living up that way. So, that would make no difference to anybody that's already living there.

Chairman Delauter said from the Staff report I don't see anything precluding the approval. Chris do you have anything else. Mr. Jakubiak said before you make a motion or as part of the motion you'll need to reference the five standards for granting the variance, either explicitly or by accepting the findings in the report or something like that. I think it's best to go thru an analysis of each condition on the record and it's good practice because sometimes these are controversial and we always want to do that. Just make a finding with respect to each one. The Chairman said and basically right out of your Staff report, Consideration of Factors. He then read these into the meeting. The Conclusion said it seems that the variance request allowing the addition to encroach as close as 2 feet to the east property line may require the greatest amount of deliberation considering the standards, especially standard #4. Mr. Jakubiak said that is the standard that two of the members raised questions about initially, so you've had some discussion. I didn't know if the Board was satisfied yet, but you did hear testimony on the record from Mayor John Kinnaid that this is the way buildings have been built in this traditional historic

area and that it's not likely to be a problem for people living in this area. So that's testimony that is on the record for you to consider as well as your own deliberation.

Chairman Delauter asked is there any other comments. Mr. Lee said on the 4' and the 3' width on the stairs we should specify that since we talked about that. I don't have a problem with the 4'. The Chairman said I don't either, but I guess if someone wants to make a motion we can include that in when we do that. If there is no other comments if someone want to make a motion we can proceed.

Motion – Commission member Bean said “having considered all of the factors outlined and had adequate deliberation on those which there were points of contention I make a motion that we grant the variance as written.” Commission member West seconded the motion. Vote – 4-1-0, motion carries, you have an approval. Commission member Robertson opposed.

Motion – Chairman Delauter said “there are no other agenda items, so if we have a motion to adjourn”. Commissioner member Bean said “so moved”. Commission member West seconded the motion. Vote – 5-0-0, we are now adjourned.

Without further discussion the meeting adjourned at 7:27 p.m.

Respectfully submitted,



Robin Clem
Recording Secretary

BOARD OF APPEALS
Thurmont, Maryland

Docket No.: A17-01
Map Grid:
Zoned: R-5
Date Filed: 3-1-17
Date Hearing: 4-13-17
Fee: \$ 50.00

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

Appeal is hereby made for a variance from a requirement of the Zoning Ordinance, as follows:

Subdivision _____ Lot _____ Block _____
Location 14 West Main St Thurmont

N S E W side of road; distance N S E W from nearest intersecting road

Appellant's present legal interest in above property: (Check one)

☒ Owner (including joint ownership) _____ Lessee _____ Contract to lease or rent _____
☐ Contract to purchase _____ Other (describe) _____

Ordinance section, and subsection if any, containing the requirement(s) from which variance is desired:

To close to property line

Specify the particular requirement(s) from which a variance is desired, in that section or subsection:

Describe the nature and extent of the desired variance from such Ordinance requirement(s):

Would like to put sunroom on property line or close to property line

Check reason(s) why the Ordinance requirement(s) in question would result in peculiar and unusual practical difficulties to or exceptional or undue hardship upon the owner of the property due to exceptional:

☒ narrowness _____ ☒ shallowness of the property, existing now and on the date of enactment _____
☐ shape of the requirement(s) in question _____ Extraordinary situation of the property. Describe briefly:

If exceptional narrowness, shallowness or shape of the property is claimed, give date of recording of plat of present subdivision if any: June 26 1968; or if property is unsubdivided, give the date on which a deed conveying the identically-bounded tract was first recorded _____

Briefly describe the difficulty or hardship upon the owner by reason of the above narrowness, shallowness, shape, condition or situation of the property, if the requested variance is not granted:

The steps that come out back are on another property that I own

Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s):

NO

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Mandi Chabey
Signature of Appellant(s)

16 West Main St Thurmont
Address of Appellant(s)

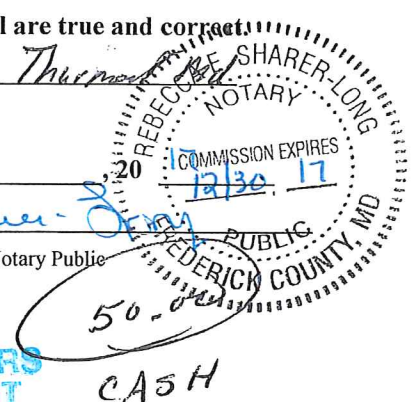
Sworn to and subscribed before me this 1st day of March

My Commission expires 12/30/17

Rebecca E. Sharer-Long
Notary Public

PAID
MAR 01 2017
COMMISSIONERS
OF THURMONT

Notary Public



240-674-5321



Frederick County,
Maryland



- ☐ Frederick County Boundary
- Surrounding Counties
- <all other values>
- Maryland

119.3

0

59.65

119.3 Feet

3/2/2017

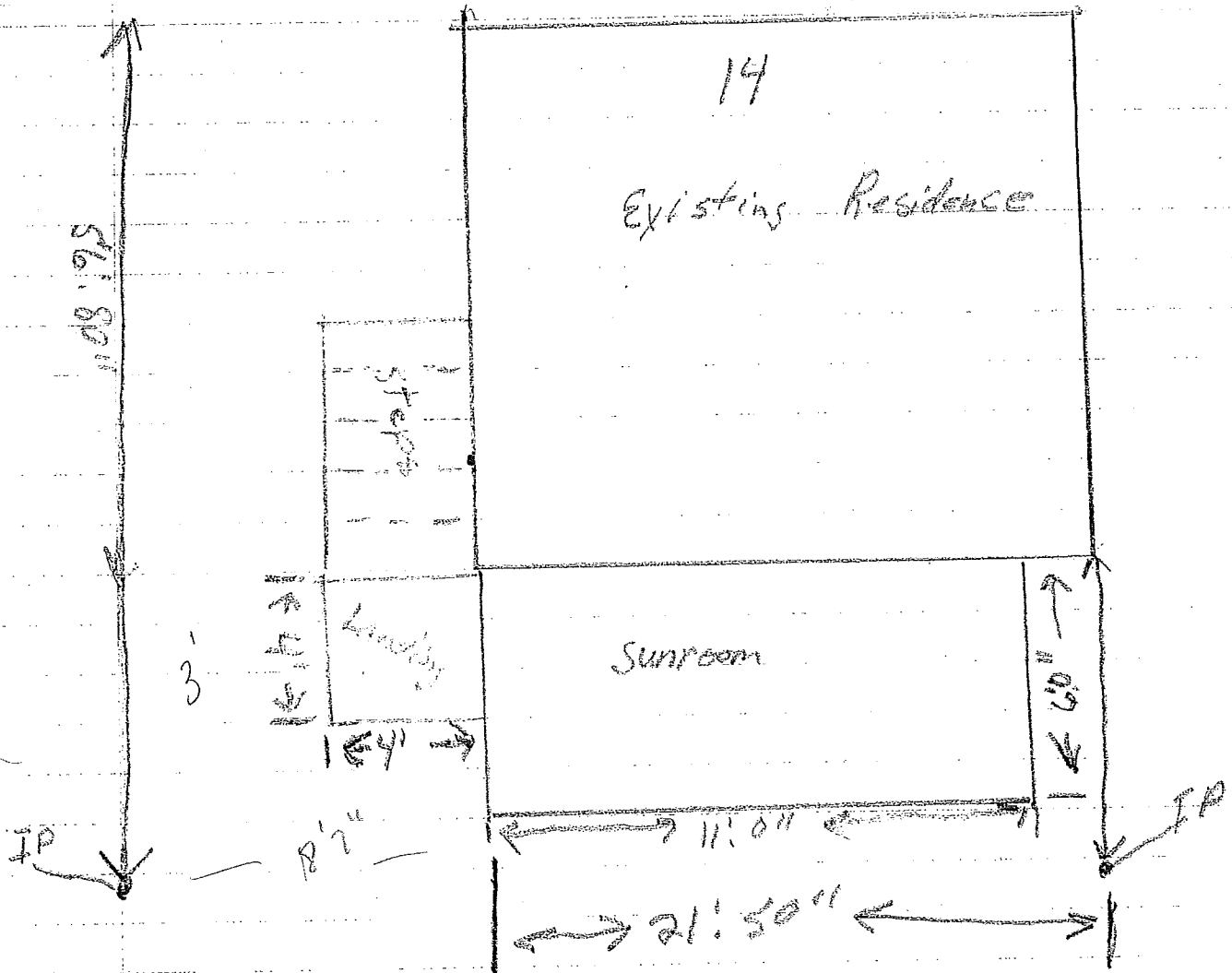
1:716



NAD_1983_StatePlane_Maryland_FIPS_1900_Feet

While efforts have been made to ensure the accuracy of this map, Frederick County accepts no liability or responsibility for errors, omissions, or positional inaccuracies in the content of this map. Reliance on this map is at the risk of the user. This map is for illustration purposes only and should not be used for surveying, engineering, or site-specific analysis.

West Main Street



LOT 22
E5-8-7

LOT 21
E5-3-343

LOT 20
E5-10-2

551-402

EXCEPTING:

456-498,

428-254,

PARCEL N^o 2 of

319-14 and

AF-3-420

651-363

712-566

645-43

① 428-254

② 2ND PARCEL 399-14

③ AF-3-420

#10

#12

#16

#18

POINT OF BEGINNING
10.3'

S 64°00'E 21.50'

N 64°00'W 44.50'

10.3'

FACE OF CURB

CURB CUT W AXE

WEST MAIN STREET

PLAT OF PROPERTY OF

THOMAS A. & ANN B. LOVE


THURMONT DISTRICT

FREDERICK COUNTY MARYLAND

ROTHENHOEFER ENGINEERS
102 WEST CHURCH STREET

MEMORANDUM

To: Town of Thurmont Board of Zoning Appeals

From: Christopher N. Jakubiak, AICP, Town Planner 

Date: April 7, 2017

RE: Case No. A17-01, Request for a Variance at 14 W. Main Street

Overview of Variance Requests

- A variance request totaling 8 feet on the east side to construct a sunroom 2 feet from the side lot line while the ordinance requires a 10-foot side yard.
- A variance request of 1 foot on the east side to construct the sunroom 9 feet from the side lot line while ordinance requires a 10-foot side yard.
- A variance of 2 feet to allow an uncovered landing and stairs in the side yard to extend 5 feet into the required side yard while the ordinance requires that such improvements not extend more than 3 feet into the required side yard.

Background

1. Mr. Mark A. Clabaugh wishes to add a sunroom to the rear of the house he owns at 14 W. Main Street which is Map 0752, Parcel 2226.
2. The sun room would be 11 feet wide and extend from the house rearward 6 feet.
3. The property is zoned R-5, Residential. There is a single-family house on the lot which according the State Department of Assessments and Taxation was built in 1880.
4. The lot is 22 feet wide according to the State Department to Assessments and Taxation. The house adjoins its neighbor at 12 W. Main Street. The front portion of the house is essentially as wide as the lot, give or take about ½ foot. The house is narrower toward the rear where the sunroom would be attached.

5. An addition to a house must comply with the side yard setback standard, which is 10 feet per Section 5.1C, Table 3 of the Zoning Ordinance. In other words, the addition is required to be set back 10 feet from each side lot line.
6. Mr. Clabaugh is requesting an 8-foot variance on the eastern side to place the sunroom 2 feet from the lot line. He is requesting a variance of 1 foot setback on west side to place the sunroom 9 feet from the lot line.
7. To summarize: the lot is 22 feet wide. The sunroom addition would be 11 feet wide and placed 2 feet from the eastern lot line and 9 feet from the western lot line: $11+2+9 = 22$.
8. Lastly, within the new 9-foot side yard on the west side, the applicant would build a 4-foot-wide landing and stairs that would lead to the front of the lot. Section 5.2B allows uncovered stairs and landings to project up to 3 feet into a side yard. The applicant's landing and stairs would project a total of 5 feet into the side yard.

Consideration of Factors

Section 2.3.1 of the Zoning Ordinance sets forth standards that the Board of Appeals must apply when reviewing a variance request. The section states that the Board of Appeals shall not grant a variance unless it makes written findings of fact based upon the evidence that each of standards are met. An assessment of the request considering the standards is provided below.

1. Because of the particular physical surroundings, shape or topographical conditions of the subject property, a particular hardship to the owner would result as distinguished from a mere inconvenience, if the strict letter of the regulations were followed. The alleged hardship shall relate to the land, not to personal circumstances.

The lot is very narrow at only 22 feet wide. If the zoning standards were strictly applied given the 10-foot required side yard setbacks, the sunroom could only be 2 feet wide.

2. The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.

This condition is not applicable throughout the R-5 district where most lots are quite large and contain multi-family developments. In the immediate block of W. Main Street that is zoned R-5, 14 W. Main Street is the narrowest lot.

3. The conditions upon which a petition is sought did not result from the actions of the applicant.

The condition relates to the width of the lot. The house dates to 1880. The applicant acquired the lot in 2016. Also, there is no evidence that the applicant subdivided the land to create the lot in its current size and configuration.

4. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

A sunroom is a reasonable use in a residential zoning district.

Along the east side where the sunroom would come close to the lot line (2 feet) the adjoining house does not extend as far rearward as the sunroom would. However, two feet is rather close for a principal residential building to approach a lot line without it sharing a party wall (or in other words, without it being attached). Two feet is usually a space too narrow to allow for building and ground maintenance or drainage without some level of trespass over the lot line. A two-foot side yard may also be injurious to the adjoining property by curtailing expansion possibilities to that building. It does not allow the planting of buffering / screening vegetation. A sunroom allows for windows and views outside, which could impact the sense of privacy in the rear yard of the adjoining lot since it would be only 24 inches from the lot line.

Along the western side, the applicant is proposing to construct the sunroom addition nine feet from the lot line. The applicant owns the neighboring lot (16 W. Main St.) on this side of the lot and it is his residence. The one foot variance would not be injurious because it is a very minor intrusion into the side yard. The extension of the landing and stairs is proposed in this same side yard.

5. The variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the property is located.

This is not likely to be an issue in part because the addition extends only six feet from the house.

6. Within the intent and purpose of this Ordinance, the variance, if granted, is the minimum variance necessary to afford relief.

This standard should be tested with the applicant. A lesser variance on the east side may indeed be possible and advisable.

7. No non-conforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

There are no non-conforming uses of land, structures or buildings being considered as grounds for the requested variances and no permitted use in another zoning districts is being considered either.

Conclusion

It seems that the variance request allowing the addition to encroach as close as 2 feet to the east property line may require the greatest amount of deliberation considering the standards, especially standard #4.

* * *

ARTICLE 5: DIMENSION REQUIREMENTS

§ 5.1 LOT AND BULK REQUIREMENTS

- A. General: This Article establishes the size of lots, the density of land use and the location, dimensional and bulk requirements of both principal and accessory buildings.
- B. Purpose: The purposes are to ensure:
1. That the use of property does not infringe on the rights or enjoyment of adjacent property owners,
 2. That new development is compatible in aesthetic character with the existing patterns of development and that it is compact and pedestrian-scaled.
 3. That there is adequate light and air for the health and safety of residents, business operators, and patrons.
 4. That the environmental quality of the land and waterways are protected and that impervious surfaces are minimized in all new construction.
 5. That fire and rescue personnel and equipment will have sufficient access to the side and rear of structures, and that
 6. The density and intensity of new development is in keeping with the planning and development of essential municipal facilities and services.
 7. Within the Town Business district property owners have the flexibility needed to develop and/or redevelop properties in ways that are compatible with the historic patterns of building.
- C. Requirements: The lot dimensional, density, and bulk requirements set forth in Tables 3 through 6 for each of the districts shall apply to all new construction.

Table 3: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS: RESIDENTIAL DISTRICTS

Uses by Zoning District ¹	Minimum Lot Requirements			Minimum Yard Requirements (ft)			Maximum Building Height ²
	Min. Lot Area	Min. Lot Area Per Unit	Min. Lot Width	Front Yard	Side Yard	Rear Yard	
R-1 Residential							
residential, single-family detached	12,000 sf	12,000 sf	80 ft	25 ft	10 ft	40 ft	30 ft
churches, religious	1 acre	n/a	100 ft	50 ft	20 ft	30 ft	30 ft
day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	30 ft
nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
R-2 Residential							
residential, single-family detached	8,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
residential, two-family (conversions only)	16,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
churches, religious	1 acre	n/a	100 ft	25 ft	20 ft	30 ft	30 ft
day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	30 ft
nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
R-3 Residential							
residential, single-family detached	8,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
residential, single-family attached (i.e. townhouses - see §6.5)	1,800 sf	4,000 sf	20 ft	20 ft	15 ft	20 ft	30 ft
residential, two-family (new and conversion)	12,000 sf	6,000 sf	60 ft	20 ft	10 ft	30 ft	30 ft
residential, duplex	6,000 sf	6,000 sf	80 ft	20 ft	12 ft	30 ft	30 ft
churches, religious	1 acre	n/a	100 ft	25 ft	20 ft	30 ft	30 ft
day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	30 ft
nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	30 ft
R-4 Residential							
residential, single-family detached	8,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
residential, single-family attached (i.e. townhouses - see §6.5)	1,800 sf	4,000 sf	20 ft	20 ft	15 ft	20 ft	30 ft
residential, two-family (new and conversion)	10,000 sf	5,000 sf	60 ft	20 ft	10 ft	30 ft	30 ft
residential, duplex	5,000 sf	5,000 sf	80 ft	20 ft	12 ft	30 ft	30 ft
churches, religious	1 acre	n/a	100 ft	25 ft	20 ft	30 ft	40 ft
day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	40 ft
nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	40 ft
recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	40 ft
R-5 Residential							
residential, single-family detached	8,000 sf	8,000 sf	70 ft	20 ft	10 ft	30 ft	30 ft
residential, single-family attached (i.e. townhouses - see §6.5)	1,800 sf	4,000 sf	20 ft	20 ft	15 ft	20 ft	30 ft
residential, two-family (new and conversion)	10,000 sf	5,000 sf	60 ft	20 ft	10 ft	30 ft	30 ft
residential, duplex	5,000 sf	5,000 sf	80 ft	20 ft	12 ft	30 ft	30 ft
multi-family	12,000 sf	4,000 sf	100 ft	30 ft	20 ft	30 ft	40 ft
churches, religious	1 acre	n/a	100 ft	25 ft	20 ft	30 ft	40 ft
day care center	12,000 sf	n/a	100 ft	25 ft	10 ft	30 ft	40 ft
nursing homes, assisted living, similar	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	40 ft
recreational (excluding public parks)	1 acre	n/a	150 ft	50 ft	20 ft	30 ft	40 ft

¹For uses which may be permitted by right or special exception but are not listed in the table under the district in which they would be located, the dimensional and bulk requirements shall be as established by the Planning Commission as part of the review and approval of a site plan except that such requirements shall not be less than the minimum or greater than the maximum allowed in the district.

²Churches, schools, institutional and official public utility buildings and structures in any district, may be permitted to exceed the maximum building height provided each required yard is increased by 1 foot for every 3 feet above the otherwise required maximum height.

Table 4: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS: COMMERCIAL AND INDUSTRIAL DISTRICTS

Zoning District	Minimum Lot		Minimum Yard Requirements (ft)			Maximum Building Height ¹
	Min. Lot Area	Min. Lot Width	Front Yard	Side Yard	Rear Yard	
TB Town Business						
residential, single-family detached	8,000 sf	60 ft	15 ft	10 ft	30 ft	45 ft
residential, two-family	6,000 sf	60 ft	15 ft	10 ft	30 ft	45 ft
hotels, motels	1 acre	200 ft	30 ft	20 ft	40 ft	30 ft
all commercial and other uses	none	none	none	none ³	none	45 ft
GC General Commercial						
All uses ⁴	20,000 sf	60 ft	0 ft ²	10 ft	40 ft	30 ft
I-1 Industrial						
All uses	20,000 sf	60 ft	25 ft	10 ft	50 ft	50 ft
OC Office Commercial						
All uses	20,000 sf	60 ft	25 ft	10 ft	50 ft	50 ft

¹ Existing residential dwellings are permitted use in the GC District, subject to the standards of the R-5 District.

² The Planning Commission shall have the discretion to increase the front yard setback at the time of subdivision or site plan review upon finding that such an increase is necessary to achieve the purposes of the Zoning Ordinance.

³ Except when adjoining a lot in any "R" District, then the side yard shall be the same as required in that "R" District.

⁴ Churches, schools, institutional and official public utility buildings and structures in any district, and any building or structure in the I District, may be permitted to exceed the maximum building height provided each required yard is increased by 1 foot for every 3 feet above the otherwise required maximum height.

Table 5: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS: OPEN SPACE AND AGRICULTURAL DISTRICTS

Zoning District	Minimum Lot		Minimum Yard Requirements (ft)			Maximum Building Height ¹
	Min. Lot Area	Min. Lot Width	Front Yard	Side Yard	Rear Yard	
OS Open Space						
All uses	none	none	50 ft ¹	15 ft ¹	50 ft ¹	none
AG Agricultural						
residential, single-family detached	40,000 sf	140 ft	40 ft	20 ft	60 ft	30 ft
churches, religious	4 acres	140 ft	40 ft	20 ft	60 ft	35 ft
public utility uses	40,000 sf	140 ft	40 ft	20 ft	60 ft	30 ft
All other uses	40,000 sf	140 ft	40 ft	20 ft	60 ft	30 ft

¹ Except that for structures exceeding 25 feet in height, the minimum yard requirements for all yards shall be 2.5 times the height of the structures.

² Churches, schools, institutional and official public utility buildings and structures in any district, may be permitted to exceed the maximum building height provided each required yard is increased by 1 foot for every 3 feet above the otherwise required maximum height.

Table 6: DIMENSIONAL, DENSITY, AND BULK REQUIREMENTS: MIXED USE DISTRICTS

Zoning District	Yard Requirements (ft)				Maximum Building Height	Maximum Building Coverage	Maximum Lot Coverage	Minimum Building Frontage
	Front Yard		Side Yard	Rear Yard				
	Min	Max	Min	Min				
MXV-1, Mixed Use Village 1								
Institutional	10 ft	30 ft	15 ft	15 ft	45 ft	70%	n/a	80 ft
Commercial	0 ft	10 ft	5 ft	15 ft	45 ft	70%	90%	25 ft
Mixed-Use	0 ft	10 ft	5 ft ¹	30 ft	45 ft	70%	90%	25 ft
Residential	5 ft	20 ft	12 ft	30 ft	42 ft	60%	75%	see note ²
MXV-2, Mixed Use Village 2								
Institutional	10 ft	30 ft	15 ft	15 ft	35 ft	70%	n/a	80 ft
Commercial	0 ft	10 ft	5 ft	15 ft	35 ft	70%	90%	25 ft
Mixed-Use	0 ft	10 ft	5 ft	15 ft	35 ft	70%	90%	25 ft
Residential	10 ft	20 ft	12 ft	25 ft	35 ft	60%	75%	see note ²

¹For builds or portions of buildings with residential uses on the ground floor, the front yard shall be a minimum of 5 feet.

²For multi-family buildings the minimum building frontage is 70 feet. For townhouse buildings the minimum frontage is 20 feet.

§5.2 EXCEPTIONS AND MODIFICATIONS

A. Exceptions to Yard Requirements

1. In any district, on any lot, which fronts on a road having a right-of-way of less than fifty (50) feet, a building shall be located at a distance from the center line of such road not less than the depth of the required front yard in the district plus twenty five (25) feet.
2. Side Yards: Side yard width may be varied where the sidewall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case, the average width of the side yard shall not be less than the required side yard; provided however that such side yard shall not be narrower at any point than one-half the required side yard width.
3. Side yard setbacks for unattached, non-enclosed carports and accessory structures in all zoning district, except the TB district, shall be a minimum of five (5) feet from the side property lines.
4. Large accessory structures, exceeding 15 feet in height, shall be subject to the setback requirements for the zoning district in which they are located.

5. In any zoning district, except the TB district, accessory structures where permitted may be erected in any rear yard provided such structures shall be:
 - a) At least 10 feet from the rights-of-way of streets or alleys, for a double frontage lot.
 - b) At least 10 feet from other accessory or principal structure on the same lot.
 - c) At least 5 feet from any rear lot line or utility easement.
6. Accessory structures exceeding 15 feet in height shall be subject to the setback requirements for the district in which they are located.
7. Notwithstanding the modifications allowed in this section, no building or structure shall have a front setback less than the minimum setback required in the district where located.

B. The following features may project from the structure into yards or courts as herein provided:

1. Cornices, canopies, eaves or other architectural features may project no more than 2 feet.
2. Fire escapes may project not more than 4 feet, 6 inches.
3. Any uncovered stair or landing may project a distance of not more than 3 feet.
4. Bay windows, balconies and chimneys may project not more than 3 feet.

C. Fences and walls may be located in required yards as herein provided:

1. Fences not exceeding 4 feet in height may be located in any front yard provided they are not opaque.
2. No fence higher than 4 feet may be located in a front yard except as provided in paragraph "4" below.
3. Fences and walls not exceeding 6 feet may be located in any side or rear yard. No fence or wall exceeding six feet is permitted except in the Industrial District.

4. Fences and walls greater than four feet and up to six feet in height may be permitted in one front yard of a corner lot only provided the fence or wall is set back at least 9 feet from the road right-of-way.

D. Modification to Height Requirements

1. The building height requirements shall not apply to: Penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to maintain and operate the building; fire or parapet walls, towers, steeples, flag poles, silos, tanks, monuments or other similar structures that projects into the air. When such structures extend beyond the maximum height otherwise permitted in the district they shall not occupy more than 25 percent of the lot area and shall be no less than 50 feet from all lot lines and rights-of-way.
2. An exception to the height limitations may be approved for any churches or building for religious worship, schools, institutional and public utility buildings and structures and any building or structure in the Industrial District provided that in each case for every 3 feet above the maximum height limit, the yard shall be increased by 1 foot over that otherwise required in the district.

§5.3 ACCESSORY STRUCTURES

- A. All accessory structures must be located behind the front building line in side or rear yards only. No more than four accessory structures shall be located on a single lot.
- B. Accessory structures having no more than 149 square feet of coverage area and no utilities extended to them, do not require a building permit.
- C. Accessory structures exceeding 149 square feet of coverage area require a building permit and shall meet the following:
 1. In the Residential, Mixed Use and Town Business zoning districts, accessory structures must be constructed of the same exterior building material of the principal building on the lot or an acceptable substitute consistent with the character of the dwelling or principal structure and the neighborhood. Structures commonly used in industrial applications are not permitted.

2. In Residential zoning districts, accessory structure may not exceed a height of 25 feet, or an area of 600 square feet or 50 percent of the dwelling unit footprint, whichever is larger.

§5.4 EXCEPTION FOR REDEVELOPMENT OF PROPERTIES IN TOWN BUSINESS DISTRICT

Notwithstanding any provision in this Ordinance to the contrary, for properties in the TB District only, the Planning & Zoning Commission may require upon receipt of an application for site plan review that the dimension and bulk requirements, including front and side yard setbacks and building height, of any new or expanded structure be the same or substantially similar to those parameters which are present on the properties which adjoin it or are located within the immediate vicinity, provided that minimum requirements of this Ordinance are met.