

DOCKET ITEM # 7
Text Amendment #2016-0007

Issue: (A) Initiation of a Text Amendment; and (B) Public Hearing and Consideration of a Text Amendment to Section 7-202 and Section 7-2505 of the Zoning Ordinance regarding proximity of accessory buildings and free-standing garages located on single-family and two-family dwelling lots to dwellings on adjacent lots.	Planning Commission Hearing:	December 6, 2016
	City Council Hearing:	December 17, 2016
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I. Issue

The purpose of this proposed zoning text amendment is to prevent the construction of a new garage or accessory structure in close proximity to – and thereby blocking – the windows of a residence on an adjacent parcel. This text amendment is prompted by the recent construction of a new garage in Del Ray approximately three feet from an existing home’s kitchen window. While the history of that case involves an unusual confluence of circumstances, the outcome is undesirable and contrary to the intent of the Zoning Ordinance generally and the infill regulations specifically – which among other goals is to ensure that new construction is compatible with its neighbors.

Article VII of the Zoning Ordinance, *Supplemental Zone Regulations*, regulates the construction of accessory buildings and structures in required side and rear yards and free-standing garages to the rear of the main building with special setback requirements. Section 7-202 – *Permitted Obstructions* regulates accessory structures including fences, trellises, sheds, and other accessory buildings used for storage. Section 7-2505 - *Free-standing garages to the rear of the main building* regulates free-standing garages in single-family and two-family residential zones.

The standards of Section 7-202 allow specific accessory buildings and structures to be located in side and rear yards with no setback requirements other than a requirement that the structure not obstruct light and ventilation.

The standards of Section 7-2505 require a new free-standing garage to have a setback of a minimum of three feet (3’) from any side or rear property line if the garage has windows which face that property line. If the garage does not have windows facing the property line, the required minimum setback is one foot (1’) from the side and rear property line.

Under current law it is possible for an accessory building or garage to be constructed in a location that would block the window(s) of a building on an adjacent lot, except for the prohibition against obstructing light and air, which only applies to accessory structures (and not to garages) and is undefined. The Zoning Ordinance’s setback requirements for dwellings are typically sufficient to prevent situations where accessory structures or free-standing garages on adjacent properties will be in such close proximity as to cause problems. Nevertheless, the situation is possible in some circumstances, such as with older buildings built before modern zoning standards or with buildings constructed with approved modifications to zoning and building code regulations. In a situation where this does occur, the impacts on the residents of that adjacent lot can be severe.

Staff proposes text amendments to Section 7-202 and Section 7-2505 of the Zoning Ordinance to modify and add language to address this issue by adding greater setbacks when an adjacent lot has a building with windows very close to the shared property line. The proposed text amendment is intended to protect existing building(s) by providing predictable but context appropriate development standards.

II. Background

In response to concerns about the compatibility of new residential infill construction with existing established neighborhoods, the Department of Planning and Zoning initiated an Infill Task Force in 2006 to study and develop short and long-term policies to address urban design and compatibility concerns. The Infill Task Force studied the impact of new residential construction on existing established neighborhoods and analyzed the impacts of the then-current zoning regulations, and it proposed regulatory changes to encourage context-sensitive design and development. Community outreach and participation was part of the process.

This project focused on residential dwellings in single-family and two-family zones outside the locally regulated historic districts. The Infill Task Force looked to address overlapping concerns related to height and bulk, historic resources and teardowns, neighborhood compatibility, garage and parking placement and their visual impacts, substandard lots, and the lack of clarification in some zoning provisions. A key finding was that while infill construction up to that point in time may have complied with then-current zoning regulations, it often was not harmonious with neighborhood context.

The Infill Task Force proposed the addition of supplemental regulations to the existing Zoning Ordinance. The supplemental regulations were intended to encourage redevelopment that is consistent with existing neighborhood patterns. Importantly, zoning incentives were added to reinforce desired development patterns in existing neighborhoods such as an exemption from FAR limits for front porches and for detached garages placed in rear yards.

Specific zoning regulations were created for free-standing garages at the rear of the main building to provide for more context appropriate positioning and sizing of garages than was possible under pre-infill policies. The new standards discourage attached garages and ensure that garages are placed in the most appropriate location on their lot, which is traditionally at the extreme rear corner of the lot. This zoning provision is described in Article VII, Supplemental Zone Regulations at Section 7-2505 - *Free-Standing Garages to the Rear of the Main Building*.

Section 7-2505 by its terms preempts any other section of the zoning ordinance and therefore serves as the only regulation of garages in zones that are subject to the Infill regulations. Under this section, the floor area of a garage constructed in accordance with the listed standards can be excluded from floor area ratio limits, and the garage can be constructed with a setback of one foot (1') if it has no windows on the setback-facing walls. Only one garage is permitted per property under this provision.

The standards defined in Section 7-2505, focus on size, setback, access, compatibility, and use and are as follows:

- *Size.* Lot size of 5,000 square feet to 8,000 square feet may install a 250 square feet garage and a height not greater than 11.50 feet. Lot size exceeding 8,000

square feet may install a 500 square feet and a height not greater than 13.50 feet. The director may modify the height permitted in this section 7-2505(B)(1) when the height and design of the garage are appropriate and compatible with the main dwelling and with the character of the immediate neighborhood.

- *Setback.* The standards allow the proposed garage to be located at a minimum of three feet (3') to any side or rear property line if windows face the property line. Otherwise, the setback is one foot (1') from the side and rear property line.
- *Access.* If there is no direct access to the garage from an alley, a permeable-surfaced driveway is permitted in the side yard for access to the garage. Tandem parking in the driveway is permitted.
- *Compatibility.* The accessory garage shall be compatible with the main dwelling in regard to materials and design.
- *Use.* The accessory garage shall be dedicated to the use and storage of motor vehicles.

Section 7-2505 was adopted in 2008 and has been used to regulate garage construction throughout the City.

Accessory structures, including sheds, fences, storage buildings, and trellises, are addressed in a different section (Section 7-202 – Permitted Obstructions). There are no setback requirements for arbors, fences, trellises, sheds, or storage buildings in Section 7-202, but there is a general requirement that these structures not obstruct light and ventilation. Normally, this allowance provides for such structures to be placed at the edge of their yards, which is a traditional and efficient location for them.

III. Discussion of Proposed Text Changes

The proposed text amendments to Section 7-202 and Section 7-2505 of the Zoning Ordinance modify and add language regarding setback requirements. The proposed text amendment is intended to protect existing dwellings with windows located on abutting properties from being impacted by accessory structures or garages that would normally be allowed in side or rear yards. These text changes would establish specific setback requirements for individual accessory buildings and free-standing garages located on single-family and two-family dwelling lots in R-20, R-12, R-8, R-5, R-2-5, RA, and RB Zones only when it is necessary to provide protection to adjacent properties.

The current setback requirements contained in both Section 7-202 (accessory structures) and 7-2505 (garages) are appropriate in most circumstances. Requiring a greater setback



Figure 1: Example of an older dwelling with windows extremely close to a side yard lot line.

would cause the accessory structure or garage to be positioned too close to the center of the rear yard, impeding the yard's usefulness. However in the unusual circumstance where there is a residential structure located close to its property line with windows facing the adjacent property, it is reasonable to require an additional setback when new construction is planned for that adjacent property.

The proposed text amendment retains the current setback regulations with additional requirements to protect an existing single family or two-family dwelling located on an abutting lot. This special requirement would require the proposed garage to be setback at a minimum of five feet (5') from the lot line if a dwelling's wall on an adjacent lot has any windows or doors facing, and within three feet of, the shared property line. This proposed setback includes any roof overhang. The additional setback is intended to create a buffer area for an existing dwelling's windows and to minimize any potential conflicts between structures on adjacent lots. This buffer area is intended to provide context appropriate development standards, protect established property values in the surrounding areas, and preserve the existing supply of light and air to an adjacent property.

The proposed text amendment is not intended to protect windowed walls of garages or accessory structures on an adjacent lot. In many cases, the most compatible location for a new shed or garage is close to a shed or garage on an adjacent lot.

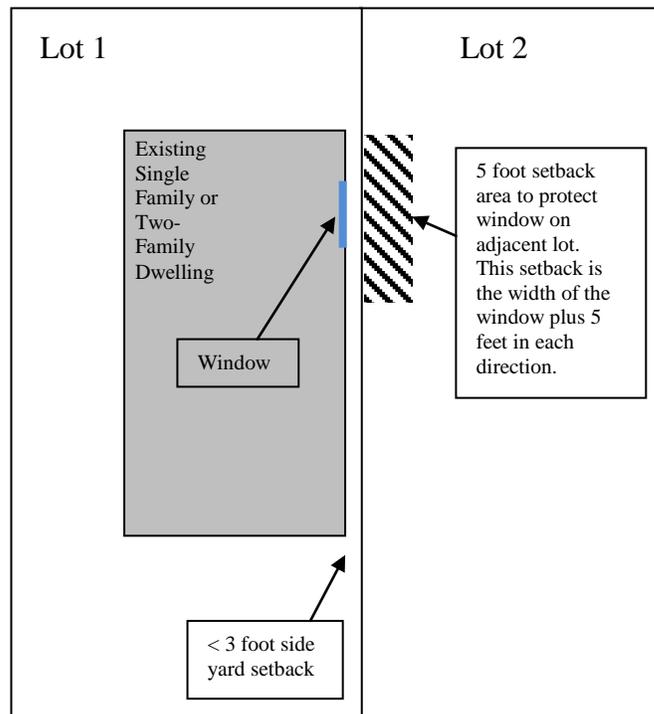


Figure 2: Illustration of two adjacent hypothetical lots where one lot (Lot 1) has an existing dwelling less than three feet from the shared lot line with windows on the wall facing the adjacent lot. The proposed setback requirement of five feet extending from the window for the width of that window plus five feet in each direction is shown as shaded area on Lot 2.

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This Text Amendment does not address other situations in other zones – typically commercial zones – where there is potential for new construction on one lot to block the windows on a building on another lot. In situations where commercially-zoned land is adjacent to residentially-zoned land, a zone transition setback ensures appropriate setbacks. And in other cases, builders of commercial buildings built on the property line and having windows facing the adjacent property obtain easements on the adjacent property to maintain a desired distance between buildings.

IV. Recommendation

The proposed text amendments increase the required setback for a free-standing garage or accessory building in situations where it would otherwise be permitted to block the windows and doorways of a building on an adjacent lot.

Staff **recommends approval** of the change to the Zoning Ordinance as proposed in Attachment #1.

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Attachments: 1. Proposed Zoning Text Changes

Attachment #1
PROPOSED ZONING TEXT CHANGES

Note: New text is underlined;
~~Deleted text is shown with a strikethrough~~

7-202 - Permitted obstructions.

The following obstructions shall be permitted when located in a required yard and placed so as not to obstruct light and ventilation and when otherwise permitted by law:

(A) In all yards:

- (1) Open fences which do not exceed three and one-half feet in height.
- (2) Awnings or canopies provided they do not project more than five feet in depth from the existing building face.
- (3) Bay or display windows, projecting 20 inches or less into the yard and gutters, eaves, cornices or window sills projecting 12 inches or less into the yard.
- (4) Chimneys projecting 30 inches or less into the yard, provided that such projection does not reduce the width of the remaining side or rear yard to less than five feet.
- (5) Arbors and trellises. If a wall on a dwelling on an adjacent lot has any windows or doorways facing the shared property line and is located within three feet of that shared property line, the new arbor or trellis' setback shall be five feet from that shared lot line. This setback is required at the location of the affected window(s) or doorway(s) and is required to extend along the width of those window(s) or doorway(s) and shall extend for a minimum of five feet in each direction from that window or doorway.
- (6) Flag poles which do not exceed 15 feet in height.
- (7) Open stairs, provided that the stairs do not reduce a side or rear yard to less than five feet.
- (8) Ramps and similar structures necessary to provide access for the handicapped.
- (9) Porticos, provided that they do not extend more than six feet from the main building wall, do not extend more than nine feet in length, which dimensions include any roof overhang, and provided further that they remain open.

(B) In any yard except a front yard:

- (1) Sandboxes, swings and other small items of children's play equipment.
- (2) Clotheslines.
- (3) Open and closed fences which do not exceed six feet in height. If a wall on a dwelling on an adjacent lot has any windows or doorways facing the shared property line and is located within three feet of that shared property line, the new fence shall not exceed three and a half feet in height along the width of

those window(s) or doorway(s). If the fence has a setback of five feet or more from that shared lot line, it is permitted to be taller than three and a half feet but shall not exceed six feet in height. This setback is required at the location of the affected window(s) or doorway(s) and is required to extend along the width of those window(s) or doorway(s) and shall extend for a minimum of five feet in each direction from that window or doorway.

- (4) Small sheds, doghouses, dollhouses and structures used for storage, provided:
- (a) On land zoned R-20, R-12, R-8, R-5 or R-2-5 and used for single-family dwellings, such structures may not exceed 80 square feet in floor area in the aggregate and eight feet in height when measured at the structure's highest point.
 - (b) On land zoned and used for semi-detached or townhouse dwellings, such structures may only be placed in the rear yard at the rear property line, may not exceed 50 square feet of floor area in the aggregate and seven feet in height when measured at the structure's highest point.
 - (c) If a wall of a dwelling on an adjacent lot has any windows or doorways facing the shared property line and is located within three feet of that shared property line, the new small shed or structure used for storage's setback shall be five feet, including any roof overhang, from that shared lot line. This setback is required at the location of the affected window(s) or doorway(s) and is required to extend along the width of those window(s) or doorway(s) and shall extend for a minimum of five feet in each direction from that window or doorway.
- (5) Freestanding air conditioning machinery, provided it can be demonstrated to the director that it will not exceed a noise level of 55 decibels (55 dB(A)) when measured at any property line of the lot, and provided it is placed in a location which has the least adverse impacts to adjoining lots of those locations available.
- (6) Open terraces and decks not over two feet above the average level of the adjoining ground and two feet above ground at any property line of the lot but not including a roofed-over terrace or porch.
- (7) Free-standing private garages to the rear of the main building in accordance with section 7-2505.
- (C) In the Old and Historic Alexandria and the Parker-Gray Districts, the requirement of sections 7-202(A)(1) and 7-202(B)(3) may be waived or modified by the board of architectural review where the board finds that a proposed fence would be architecturally appropriate and consistent with the character of the district.
- (D) In any residential zone a ground level covered open front porch is permitted to project a maximum of eight feet from the front building wall into the required front yard, or primary front yard if a corner lot, of a single-family, semi-detached, duplex or townhouse dwelling; provided that a special exception under section 11-1302 of this ordinance is approved.

(Ord. No. 3606, § 10, 12-12-92; Ord. No. 3697, § 4, 1-22-94; Ord. No. 3822, § 3, 9-16-95; Ord. No. 3923, § 6, 4-12-97; Ord. No. 4483, § 2, 5-12-07; Ord. No. 4556, § 1, 6-24-08; Ord. No. 4910, § 4, 11-15-14)

7-2505 - Free-standing garages to the rear of the main building.

(A) Regardless of other regulations in this zoning ordinance, a free-standing private garage is permitted to the rear of the main building in accordance with the regulations in this section 7-2505 so long as it is the only garage on the lot or adjacent vacant lot under common ownership. The floor area of such a garage constructed in accordance with the standards of this section will be excluded from floor area calculated under the provisions of section 2-145(A)(6).

(B) Standards.

(1) *Size.* For lots with a minimum of 5,000 square feet and with less than 8,000 square feet lot area, the garage shall have a floor area not greater than 250 square feet and a height not greater than 11.50 feet. For lots 8,000 square feet or larger, the garage shall have a floor area not greater than 500 square feet and a height not greater than 13.50 feet. The director may modify the height permitted in this section 7-2505(B)(1) when the height and design of the garage are appropriate and compatible with the main dwelling and with the character of the immediate neighborhood.

(2) *Setback.* ~~The garage shall be set back a minimum of three feet from the side or rear property line if windows face the property line; otherwise the minimum setback is 1 foot. The garage may be located in the rear yard if it complies with the following:~~

(a) The garage shall be set back a minimum of one foot from any side or rear property line if the garage wall facing that property line has no windows or doors or if that lot line borders an alley;

(b) If the conditions of Item (a) above are not met, the setback shall be three feet; and

(c) If a wall of a dwelling on an adjacent lot has any windows or doors facing the shared property line and is located within three feet of that shared property line, the new garage's setback shall be five feet, including any roof overhang, from that shared property line. This setback is required at the location of the affected window(s) or doorway(s) and is required to extend along the width of those window(s) or doorway(s) and shall extend for a minimum of five feet in each direction from that window or doorway.

(3) *Access.* If there is no direct access to the garage from an alley, a permeable-surfaced driveway is permitted in the side yard for access to the garage. Permeable-surfaced driveways can be composed of grass with ring and grid structure, gravel with a grid structure beneath, paving strips, a grid based

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surface, or other treatments without significant compaction of the base, but must be approved by the department of planning and zoning and the department of transportation and environmental services. Either the department of planning and zoning or the department of transportation and environmental services can grant an exemption to the permeable-surfaced driveway requirement in cases of steep slopes, adverse soil conditions, constructability, or other conditions that for safety or environmental reasons would require use of a non-permeable surfacing material. Tandem parking in the driveway is permitted. Curb cuts must be approved in accordance with section 5-2-2 of the City Code and section 8-200(C)(5) of this zoning ordinance. The number of vehicles permitted on the lot is limited by section 8-200(C)(6).

- (4) *Compatibility.* The accessory garage shall be compatible with the main dwelling in regard to materials and design.
- (5) *Use.* The accessory garage shall be dedicated to the use and storage of motor vehicles.