

Council Agenda Report

Date: February 17, 2017
Submitted by: Odie Wheeler, Director of Public Works
Prepared by: Pat Escher, City Planner, A.I.C.P.

SUBJECT: Ordinance No. 1096 Text Amendment to Section 5.1.3 to clarify setbacks for accessory structures.

Recommendation: That Council

- A. Introduce Ordinance No. 1096 by reading of title only; and
 - B. Schedule March 13, 2017 for second reading, public hearing and adoption of Ordinance No. 1096.
- I. **DISCUSSION:** This text amendment is providing clarification to the setbacks for accessory structures. The way the current Code is written there are two interpretations that could be derived from the existing language.

The first is that accessory structures are permitted to be closer to property line in all residential zone districts or secondly the accessory structures are permitted to be closer to property lines in the Residential Zone District.

Staff believes that the intent of the regulation was to provide relief to some of the residential zones that are more historic with the smaller lot sizes and not be a blanket relief for all residential zones. Additionally, staff does not believe that this modification should apply to the Residential Zone District as these are the newer areas of the City with larger lot sizes.

Therefore, staff is recommending the following changes to the accessory structures setbacks.

§ 5.1.3 Accessory Building/Structure Requirements

- A. **Location of Accessory Buildings and Structure**
The following provisions apply to the location of accessory buildings:
1. Accessory buildings shall not occupy any required front yard or side street yard.
 2. An accessory use or structure may not occupy more than 35% of the area of the rear yard.
 3. Accessory buildings shall not be located closer than six feet from any side property line or five feet from any rear property line, except in ~~the Residential~~ all the Neighborhood Conservation Districts and in the

Downtown Waterfront Development District Neighborhood Subdistrict
where accessory residential buildings and structures may be as close as three feet from the side or rear property lines.

B. Height of Accessory Building or Structure

1. Except in the Industrial district, where the high point of the roof of any accessory building exceeds 12 feet in height, the accessory building shall be set back from the rear lot line an additional two feet for every foot of height exceeding 12 feet.
2. In all districts except the Industrial district, the maximum height of an accessory building shall be 18 feet. In the Industrial district the maximum allowed height shall be the maximum height of the principal structure on the lot.

C. Accessory Swimming Pools

Accessory swimming pools may occupy a required rear yard only, provided that they are not located closer than ten feet to the principal dwelling, side property line, rear property lot line, and any other accessory structure located on the premises.

1. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls.
2. Every in-ground swimming pool shall be protected by a safety fence or barrier wall which is at least four (4) feet in height and approved by the Zoning Official.
3. Every above-ground swimming pool which has the capacity for two (2) feet of water depth, but less than four (4) feet in height shall be protected by a safety fence or barrier wall which is at least four (4) feet in height and approved by the Zoning Official.
4. Every above-ground swimming pool which is greater than four (4) feet in height which provides unrestricted access to the pool via steps or unsecured ladder shall be protected by a fence or barrier wall at least four (4) feet in height and approved by the Zoning Official. If the ladder, steps or device can be adequately secured or locked so as to prevent access to the pool, then a fence or barrier wall shall not be required.

D. Building Permits Required

Any accessory building or structure greater than 100 square feet in size shall require a permit before placement.

E. General Requirements

1. When an accessory structure is attached to a principal structure it then becomes part of that structure and must comply with the setback requirements for a principal structure in that zoning district.
2. No accessory use or structure shall be permitted on a lot unless the principal use or structure previously exists or unless construction on the principal structure has started to the point of establishing the permanent foundation of said structure.

928

PROPOSED ORDINANCE

ORDINANCE NO. 1096

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND, TO AMEND SECTION 5.1.3 OF THE UNIFIED DEVELOPMENT CODE (UDC) FOR THE PURPOSE OF PROVIDING CLARITY TO THE PERMITTED SET-BACK CRITERIA FOR ACCESSORY RESIDENTIAL STRUCTURES WITHIN RESIDENTIAL ZONES. THE AMENDMENT WOULD RETAIN THE SIX-FOOT SIDE YARD SETBACK AND THE FIVE-FOOT REAR YARD SET-BACK IN ALL RESIDENTIAL DISTRICTS WITH THE EXCEPTION OF THE NEIGHBORHOOD CONSERVATION DISTRICTS AND THE DOWNTOWN WATERFRONT DEVELOPMENT DISTRICT NEIGHBORHOOD SUB-DISTRICT, WHERE THE SIDE AND REAR SET-BACK SHALL BE THREE FEET.

WHEREAS, upon consideration of the unanimous recommendation of the Planning and Zoning Commission following a public hearing before the commission held on January 3, 2017, and upon consideration of the recommendation of staff of the Department of Planning and Zoning, the comments made at a public hearing before City Council, held on February 13, 2017 the City Council finds that the proposed amendments are needed to promote and/or protect the public health, safety and welfare; and

WHEREAS, notice of the public hearing on the proposed text amendment was published in the Star Democrat on January 27, and February 3, 2017; and

WHEREAS, the amendment would include increase the permitted height of structures in the Industrial Zone from thirty five feet to fifty feet.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge, that Section 5.1.3 of the City's Unified Development Code is hereby amended as follows:

§ 5.1.3 Accessory Building/Structure Requirements

A. Location of Accessory Buildings and Structure

The following provisions apply to the location of accessory buildings:

1. Accessory buildings shall not occupy any required front yard or side street yard.
2. An accessory use or structure may not occupy more than 35% of the area of the rear yard.
3. Accessory buildings shall not be located closer than six feet from any side property line or five feet from any rear property line, except in [[the Residential]] all the Neighborhood Conservation Districts and in the Downtown Waterfront Development District Neighborhood

Subdistrict where accessory **residential** buildings and structures may be as close as three feet from the side or rear property lines.

B. Height of Accessory Building or Structure

1. Except in the Industrial district, where the high point of the roof of any accessory building exceeds 12 feet in height, the accessory building shall be set back from the rear lot line an additional two feet for every foot of height exceeding 12 feet.
2. In all districts except the Industrial district, the maximum height of an accessory building shall be 18 feet. In the Industrial district the maximum allowed height shall be the maximum height of the principal structure on the lot.

C. Accessory Swimming Pools

Accessory swimming pools may occupy a required rear yard only, provided that they are not located closer than ten feet to the principal dwelling, side property line, rear property lot line, and any other accessory structure located on the premises.

1. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls.
2. Every in-ground swimming pool shall be protected by a safety fence or barrier wall which is at least four (4) feet in height and approved by the Zoning Official.
3. Every above-ground swimming pool which has the capacity for two (2) feet of water depth, but less than four (4) feet in height shall be protected by a safety fence or barrier wall which is at least four (4) feet in height and approved by the Zoning Official.
4. Every above-ground swimming pool which is greater than four (4) feet in height which provides unrestricted access to the pool via steps or unsecured ladder shall be protected by a fence or barrier wall at least four (4) feet in height and approved by the Zoning Official. If the ladder, steps or device can be adequately secured or locked so as to prevent access to the pool, then a fence or barrier wall shall not be required.

D. Building Permits Required

Any accessory building or structure greater than 100 square feet in size shall require a permit before placement.

E. General Requirements

1. When an accessory structure is attached to a principal structure it then becomes part of that structure and must comply with the setback requirements for a principal structure in that zoning district.
2. No accessory use or structure shall be permitted on a lot unless the principal use or structure previously exists or unless construction on the principal structure has started to the point of establishing the permanent foundation of said structure.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective on the tenth (10th) day following the date of adoption.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Sandra Tripp-Jones
City Manager

By: _____
Victoria Jackson-Stanley, Mayor

Introduced the 27TH day of **February, 2017**

Adopted the _____ day of **March, 2017**

Effective the _____ day of **March, 2017**