

July 7, 2010

MEMO

From: Land Use Committee

To: Town Council

CC: Town Manager

RE: Report on the work of the Land Use Committee during September 2009-June 2010

1. **Code change recommendations.** The Land Use Committee (LUC) presented the recommendations outlined in the LUC report dated July 6, 2009 and the "Housekeeping Code Change" recommendations compiled in September 2009 to the Town Council at the September 23 work session. The Town Council accepted many of the LUC's recommendations, but asked the LUC to take a further look at several items: 1) the impact on oddly shaped lots and corner lots of the recommended change in the rear setback computation, 2) the use of parking regulations to limit front yard paving/parking pads and the effectiveness and complexity of such measures compared to the 35% rule, , 3) the Town regulations that deal with the public right of way and the issues raised in the LUC report, 4) the remaining Housekeeping Code Changes. During the year, the LUC was asked to review additional Housekeeping Code Change suggestions compiled by Town staff.

The LUC presented its recommendations for the items referred to the committee from the September work session as well as additional housekeeping code changes. The committee's recommendations were presented to the Town Council in a memo dated June 18, 2010 and reviewed at the June22, 2010 council work session. The Town Council reviewed all of the recommendations and made determinations. The Town attorney is drafting wording for all of the accepted changes.

2. **Right-of-Way Survey:** The LUC recommended in its July 6, 2009 report that the Town have all properties surveyed to ascertain the location of the public right of ways. The Town currently does not know where the public right of way is on most lots in the Town, but the Town has numerous regulations about use of the public right-of-way, plants trees in the public right-of-way, constructs sidewalks on the public right-of-way, and may need to perform or authorize work in the public-right-of way. Knowledge of the location of the public rights-of-way would assist the Town in identifying small parcels of land that could be used as parks within the Town. Further, the Town is responsible for violations of the public right-of-way whether it is aware of them or not. The Town staff would appreciate having data on the location of the public rights-of-way. They consult maps of the Town 10-15 times per day, but these maps are inaccurate/incomplete. Town staff would be better able to advise residents about what they can do with their property if they knew where the public right-of-way was located

Chevy Chase View and Martin's Addition have completed right-of-way surveys and use them check that construction does not violate the public right-of-way, calculate front building lines, map the location of all town trees in order to monitor upkeep and planting..

Recommendation: The current LUC also recommends that the Town conduct a survey of the public rights-of-way. However, as the cost of this survey may be high (Alan Beal estimated the cost at \$150,000 to \$200,000), this may not be the time to do it. It may be

possible to obtain some information about public rights-of-way from the Chevy Chase Historical Society and/or from building plans submitted by residents in recent years. Such information would serve to augment information on the Town maps but would be incomplete and will not help with “on the ground” work.

3. Handbook of Town Building Regulations: The committee has been charged with creating a handbook for residents that lays out and explains Town rules and regulations pertaining to construction. The Town has hired Victor Tervalo to write the handbook under the LUC’s direction. The handbook will be comprehensive and include all regulations that could impact a possible building project (from the building ordinance, tree ordinance, water ordinance).

The committee proposes that the Handbook be:

- Project oriented: Have a number of general chapters that describe basic information and then have chapters that focus on the regulations pertinent to particular project types. This will allow residents to quickly find the regulations that will affect their particular project.
 - Preface to discuss basics such as what types of projects require a building permit, which do not; vision/purposes of various building regulations, how Town staff can assist, how Town and County regulations interface.
 - Many of the chapters will be very short. Information in some chapters will be somewhat redundant, but we don’t want residents to have to flip back and forth a lot, it is too confusing.
 - Include a flow chart in some chapters to show the progression of steps involved.
- Provide information about the building regulations paraphrased into clear, simple English. The text in the Handbook will not always include every detail of a regulation, particularly when there are special exceptions (the reader will be informed that there are exceptions and the code should be consulted for full details). Some text will be set off in shaded text blocks (such as details about rules for corner lots) so that residents who need that information can find it easily but it doesn’t “clutter up” the main body of the text.
 - Do not provide Town code in the Handbook, but do provide code references so residents can look up regulations of interest.
 - Do not provide any County regulations in the handbook but do remind residents that they exist.
- Include examples of calculations (setbacks, FAR, lot coverage).
- Include diagrams -- a picture is worth a thousand words particularly with some of these rules.
- Publish a searchable online version of the Handbook that can easily be kept updated and have clarifying materials added as needed. The online version could be in PDF (or some other format) that would permit a nicely formatted copy to be printed off if desired. This does not preclude publishing a paper copy of the initial Handbook for distribution to Town residents. The online version is likely to be more popular with younger residents than the print version.

Attachment A provides the Committee’s proposed outline for the Handbook.

Attachment B has a rough draft of the Additions chapter. The committee has been working with Victor Trevala to draft this chapter. We do not consider this chapter to be in final form yet but think it is in good enough shape for the town Council to review it to see if they like the general approach. Once we get this chapter completed, the other project chapters will be quite easy to do.

The committee requests:

- 1) Feedback from the Council about our proposed concept for the Handbook
- 2) Feedback on the Additions Chapter
- 3) Any suggestions for additional information to include in the Handbook.

Once we have the go-ahead from the Council, we will continue drafting the Handbook this summer. The committee plans to ask selected residents for comments and suggestions as well as the Handbook proceeds.

Attachment A Handbook Outline

The general approach for the Handbook is to organize it by project type. Each chapter will be devoted to a different project type and will include all relevant Town building code information. The tree ordinance and the water ordinance will be covered in separate chapters, as will the variance procedure. A glossary will also be needed.

At the beginning of each chapter, we suggest having an itemized table of contents (listing each of the topics covered in the chapter). Also a listing of all of the building code regulations (the code “numbers”) that pertain to the project will be referenced in the chapter and a complete list given at the end of the chapter.

Chapter 1. Building in the Town of Chevy Chase

General introductory material about: Town visions; what types of projects require a Town building permit, what types do not; differences between Town and County building regulations, how Town staff can be of assistance during a project; overall description of the permitting process (steps involved); where to find the Town building regulations; plug for being a considerate neighbor during construction

- Chapter 2 Calculations (setbacks, Gross Floor Area, Lot Coverage.
- Chapter 3 Additions
- Chapter 4 New Houses
- Chapter 5 Garages and accessory building
- Chapter 6 Decks, Porches, Stairs, Stoops, Bay Windows, ETC.
- Chapter 7 Fences, Walls, Hedges
- Chapter 8 Front yard landscaping
- Chapter 9 Driveways
- Chapter 10 Outdoor pools, therapeutic baths, tennis court
- Chapter 11 Public right-of-way
- Chapter 12 Pre-pac
- Chapter 13 Tree Ordinance
- Chapter 14 Water Ordinance
- Chapter 15 Variance Process
- Chapter 16 Glossary
- Chapter 17 Resources

Attachment B

Chapter X...

Additions and external alterations

Additions and external alterations to an existing house are construction projects that change the exterior shape of the house. Additions increase the house's size by changing its footprint (length, width, contour) and/or its height. External alterations are more minor construction projects that change some portion of the house's exterior, but don't necessarily increase the size of the house. Here are some examples of additions and external alterations:

Examples of additions

Adding rooms (family room or kitchen) if it changes the footprint one-story part of the house
Adding a room on top of a one-story part of the house
Adding a mudroom
Enclosing a front porch/stoop
Screening in an open porch

Examples of external alterations

Adding a bay window
Adding dormer windows
Adding a deck
Adding a front porch or stoop
Adding external stairway
Adding a chimney
Adding steps to a porch, stoop

All additions and external alterations are regulated by the Town's building code. The Town generally does not regulate construction projects that involve only alterations to the interior of a house (an exception being digging out a basement floor to increase ceiling height). Town regulations control building height, floor area, external wall length, front, rear and side setbacks, the effect of the construction on trees and water drainage, and the amount of nonvegetative surface area in the front yard.

What's in this chapter?

- Planning an addition checklist
- Where can I build?
- How big can I build?
- What other restrictions regulate the bulk and mass of my home?
- What regulations apply to projections into front, back and side yards?

- Can I build onto to a nonconforming structure?
- What must I do to protect streets and sidewalks from my construction activity?
- Is a variance possible?
- Relevant provisions of the Town Code.

Planning an Addition Checklist

- 1) Educate yourself before you start. For general information, review the chapter Step-by-Step Guide to building in the Town; for specifics about additions, review this chapter. For full details about Town building regulations, read the relevant sections of the Town code (the pertinent sections of the Town code are referenced in the chapter and listed at the end). If you have questions, feel free to call the Town Office for assistance. Remember that your project must be in compliance with Town building regulations AND with County building regulations
- 2) Figure out if your proposed project is feasible (before you spend a lot of time and money on plans, surveys, etc. You can do this by estimating your front, side, and rear setbacks, how much more of your lot can be covered by buildings, how much more *gross floor area* can be built on your lot, and if there are any canopy trees you'll have to work around). Town staff can help with this.
- 3) If your project is feasible, get the real numbers. You'll need a boundary survey accurate to one inch, the lot coverage and gross floor area of the existing house and accessory buildings computed by the surveyor, civil engineer, or architect. You'll also need elevation figures to compute how tall your addition can be.
- 4) Use the survey to figure out where you can build (front, side, rear setbacks, established building line, and location of canopy trees).
- 5) Use the lot coverage computation to determine how many more square feet of your lot can be covered by buildings.
- 6) Use the gross floor area computation to determine how much gross floor area you can add to your house.
- 7) If any canopy trees need to be removed to do the project apply for a tree removal permit. If you're not allowed to remove them, you'll have to plan around them.
- 8) If some aspect of your proposed project violates Town or County building regulations, revise your plans or if a hardship exists, apply for a variance.

- 9) Keep your neighbors informed about your plans. This will help prevent problems down the road and may yield useful comments/suggestions.
- 10) If your proposed addition adds 500 or more square feet to any floor of your house, make arrangements for a Pre-Permit Application Consultation.
- 11) File a Water Drainage Plan if your proposed addition adds more than 700 feet of impervious surface.

Where Can I Build?

Both the Town and the County regulate where you can build on your lot using *front, rear and side setbacks*. The size of the setbacks depends on the dimensions of your lot. The Town's setbacks are more restrictive than the County's setbacks, so when your project is in compliance with the Town setbacks, it will be in compliance with the County setbacks. In addition, the Town prohibits removal of healthy canopy trees, so you will have to take into consideration the location of trees when you plan where to build your addition.

Front, side, and rear setbacks are measured from the front, side, and rear lot lines. Before you have plans drawn for your addition you'll need a boundary survey (accurate to 1 inch) to determine exactly where these are, although you may be able to get a rough idea from your plat. The location of your front lot line may be a surprise to you because a portion of your front yard may actually be public right-of-way. To use the Town's quick setback calculator, go to: <http://www.townofchevy Chase.org/c/186>

The general rules about front, side, and rear setbacks in the Town are described below. Special rules apply to corner lots and to houses built before February 23, 2006. Other exceptions exist (for example, if your house is built to within 7 feet or less of the side lot line). Please refer to the Town code to see the exceptions, or call the Town office for help.

Front setback. (Sec. 4.4(a))

Your addition must be set at or behind the *established building line* or 25 feet from the *front lot line*, whichever results in a greater setback. There are some special circumstances that allow your addition to encroach beyond the front setback line (but not beyond the minimum 25 foot front setback). Front porches also may encroach beyond the front setback (see the chapter on porches).

Corner lots – If you have a corner lot, then you have 2 front yards (the two portions of your lot that border streets are considered to be front yards). This means that you have two front lot lines. Generally, your addition cannot be any nearer to a front lot line than the established building line or 25 feet, whichever results in a greater setback. If, however, the house on the adjoining lot on one of the streets does not front on that street, the minimum setback from that front lot line is 15 feet (rather than 25 feet). PICTURE NEEDED HERE

Side setbacks. (Sec. 4.4(b) & (d)).

The Town code establishes both the minimum side setback for a single side and the minimum setback for both sides combined. The wider the lot is, the wider the minimum single-side and combined side setbacks are.

- Under the combined side setback formula, if your lot width is 53 feet or less (measured at the established building line), then the total combined setback must be at least 16 feet. If your lot width is greater than 53 feet, then the combined setback must be 30 percent of the lot width. For example, if your lot width is 60 feet, then the combined side setback must be at least 18 feet ($60 \times .3$).

- For a single side setback, if your combined side setback is less than 20 feet, then the Town code requires each side setback to be at least 8 feet. If your combined side setback is greater than 20 feet, then the minimum single side setback must be 40 percent of the combined setback. For example, suppose your combined side setback is 30 feet, then the minimum side setback must be at least 12 feet ($30 \times .4$).

Rear setbacks. (Sec. 4.4(c)).

The minimum rear setback depends on the depth of the lot and the size of the front setback. The formulas used to calculate the rear setback also depends on the depth of the lot.

- Lots 100 feet in depth or less: The rear setback is 20 feet from the rear lot line.

- Lots that exceed 100 feet in depth but are less than 120 feet: The minimum rear setback is 20 feet PLUS 70 percent of the depth in excess of 100 feet. This amount is decreased by one foot for every foot the front setback exceeds 30 feet (although the total rear setback can never be less than 20 feet).

Example: Suppose your lot is 110 feet in depth and its front setback is 35 feet. The rear setback is computed as follows: 20 feet

(minimum) plus 7 feet (70 % of depth in excess of 100 feet) for a subtotal of 27 feet. This subtotal is decreased by 5 feet because the front setback is 35 feet, which exceeds (by 5 feet) the 30 foot standard established in Town code. The final result: a 22 foot rear setback.

- Lots greater than 120 feet in depth: The minimum rear setback is 25 feet PLUS 70 percent of the depth in excess of 100 feet. This amount is reduced by one foot for every foot the front setback exceeds 30 feet (although the total rear setback can never be less than 25 feet).

Corner lots. For corner lots that are 120 feet or less in depth, the minimum rear setback is 20 feet. For corner lots more than 120 feet in depth, the minimum rear setback is 20 feet PLUS 70 percent of the depth in excess of 120 feet. This amount is reduced by one foot for every foot the front setback exceeds 30 feet (although the rear setback can never be less than 20 feet)

How Big Can I Build?

Both the County and the Town regulate the bulk/mass of homes; the County limits lot coverage and height to do this, the Town limits gross floor area and height to do this. How big your addition can be depends mainly on two measures: 1) how much of your allowed *lot coverage* your existing house and accessory buildings have already used up, and 2) how much of your allowed *gross floor area* your existing house and accessory buildings have already used up. In addition, the Town height regulations (which are more restrictive than the county height regulations) may affect the size of an addition.

(a) Lot coverage

The County regulates the amount of your lot that can be covered by buildings. EXPAND

(b) Gross Floor Area. (Sec. 4.3(c))

Town regulations limit the amount of square footage that may be built on a lot. This is accomplished by setting limits on the maximum Floor Area Ratio (FAR) for a lot, which in turn translates into maximum allowable gross floor area on the lot. FAR is the ratio of the “gross floor area” of the buildings on a lot to the total area of the lot and is expressed as a number between 0 and 1. For example, if the gross floor area of a house is 3,000 square feet and the area of the lot is 6,000 square feet, then the FAR is $3,000/6,000=.50$. To put it another way, FAR measures the volume

of a house relative to the area of the lot. The Town chose to use FAR to regulate the bulk/mass of houses because FAR is uniform across different-sized lots and because FAR only restricts the overall amount of square footage that can be built on a lot, not the configuration of that footage.

“Gross floor area” refers to the amount of floor space that counts towards a FAR measurement. Under the Town code, gross floor area includes all the enclosed square footage on a lot, although certain surfaces are excluded such as basements, unenclosed porches, and certain attic spaces. See the Town Code for details.

- Lots smaller than 6,000 square feet. A house on these lots can have a gross floor area of up to 3,000 square feet.
- Lots with 6,000 to 12,000 square feet. The maximum FAR allowed for these lots is .50, so the maximum gross floor area ranges from 3,000 square feet on a 6,000 square foot lot (3,000 sq. ft. house/6,000 sq. ft. lot=FAR of .50) to 6,000 square feet on a 12,000 square foot lot (6,000 sq. ft. house/12,000 sq. ft. lot=FAR of .50).
- Lots larger than 12,000 square feet. The maximum FAR allowed for these lots is .50 for the first 12,000 and .25 for amounts in excess of 12,000 square feet. For example, if a lot has 15,000 square feet, the maximum gross floor area allowable is 6,750 square feet. (First 12,000 s.f * .5 = 6,000 s.f. Next 3,000 s.f * .25 = 750 s.f.)

To compute how much additional gross floor area is allowed on your lot you must: 1) calculate the total allowed gross floor area for your lot, 2) calculate the gross floor area of your existing house, and 3) compute the difference between the two. Calculating the allowed gross floor area for your lot is not difficult, but calculating the gross floor area of your existing house is tricky. The Town offers a free Gross Floor Area calculation for your existing house which while not accurate enough for permitting purposes (for your permit, you will need to have a certified calculation done by a surveyor, civil engineer, or architect) will give you a good estimate which can help you in your initial planning.

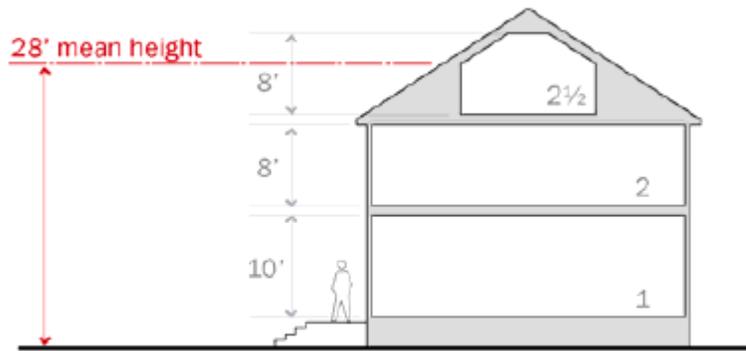
(c) Building Heights (Sec. 4.3(b))

Generally the height of a house cannot exceed 33 feet or 28 feet, depending on how it is measured. When measured from the average pre-development grade in front of your house to the highest point of its roof, the height cannot exceed 33 feet. When measured to the mean height level between the eaves and ridge of a gable, hip, mansard, or gambrel roof, heights cannot exceed 28 feet. (Figure 1.) You pick which way you

want the height of your house measured; your house only has to meet one of these height limits, not both. Exceptions exist if the house or the *established building height* already exceeds the above standards. See the Town code for details, or ask the Town staff for assistance.

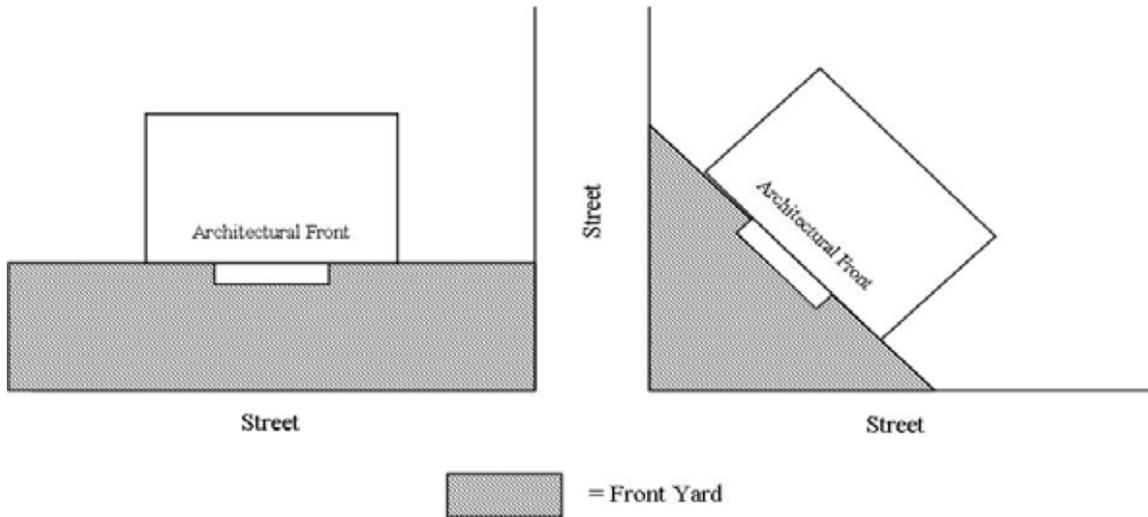
The Town also regulates the maximum exterior wall height (wall plane height); this may affect the height of your addition particularly if you have a sloped lot (see “What other restrictions regulate the bulk and mass of my house?”).

Figure 1



Example of maximum building height with one possible way to arrange interior ceiling heights

Figure 2

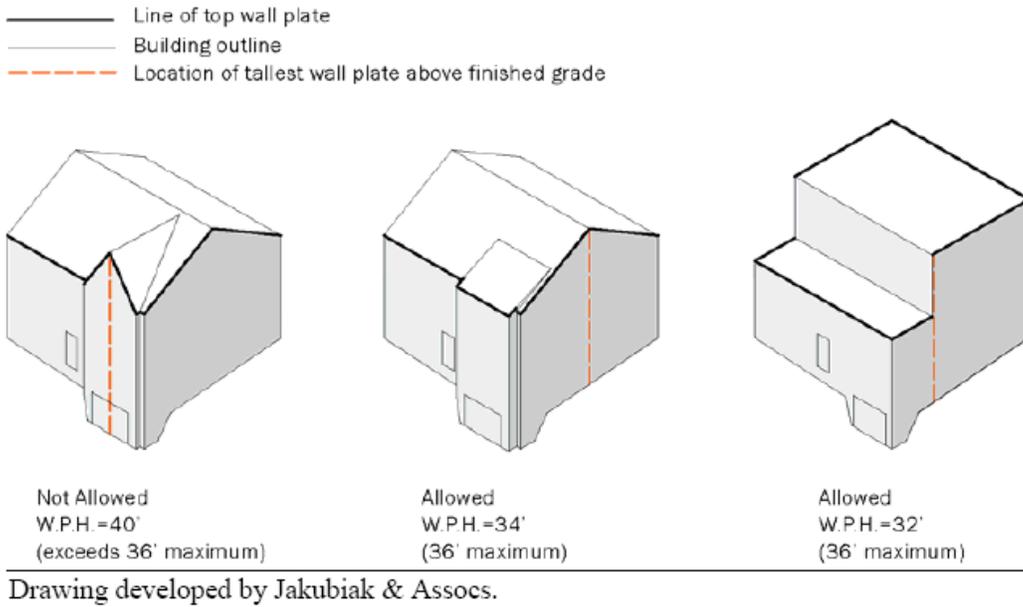


What other restrictions regulate the bulk and mass of my home?

The Town code limits the lengths and heights of exterior walls and restricts certain elements of attached garages. Secs. 4.3 (b) & (d) & Sec. 4.5 (f), (g) & (h).

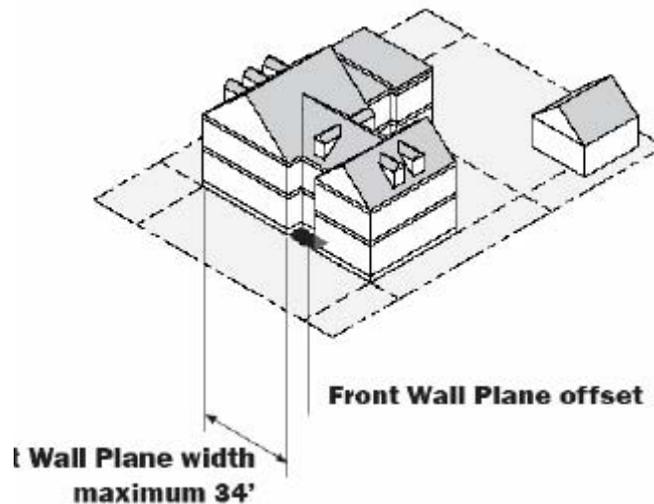
- The maximum allowable height of an exterior wall (referred to as the *wall plane height*) is 36 feet. (Figure 3). If you have a sloping lot, this restriction may affect the height of a multi-story addition.

Figure 3



- The maximum horizontal length of an exterior wall (referred to as the *wall plane length*) is 34 feet, unless there is an “articulation” such as an architectural offset, a porch, w or a chimney. To qualify, these offsets must measure at least 2 feet deep and 5 feet in width and run the full height of the wall. (Figure 4)

Figure 4



- A garage that is attached to the house and faces the front yard can have only one garage door, which cannot exceed 9 feet in width. The garage

must be setback or set forward from the front building line by a minimum of 3 feet (REPHRASE in accordance with new wording in code).

What regulations apply to projections into front, back and side yards?

Projections from a house such as steps, porches and balconies have special rules that apply to them. In part, the rules depend on whether the projection is covered or uncovered, enclosed or unenclosed.

(a) Porches, stoops, decks, terraces and steps. (Sec. 4.4(f)(1)).

The Town allows porches, stoops, decks, terraces and steps that lead up to them to extend beyond the front, side, and rear setbacks if they are uncovered and not enclosed. These types of projections can extend up to 9 feet beyond the front and rear setbacks and up to 3 feet beyond a side setback. The first 3 feet of a front or rear projection can be covered by a roof. If the extensions are enclosed, these exemptions do not apply at all.

Corner lots. Side yards for corner lots have special rules. The Town does not permit any encroachment into a side yard if the side yard is less than 25 feet in width. For side yards of greater widths, steps, stoops, decks, terraces and porches can extend up to 9 feet into these areas. [I don't understand what this means. Is it referring to yards which are on the side of the house but because of the corner lot are technically front yards?] KF

(b) Bay windows, oriel entrances, vestibules and balconies. (Sec. 4.4(f)(2)).

In general, the Town permits a bay window, oriel entrance, vestibule or balcony to project up to 3 feet beyond the front or rear setback and up to 2 feet beyond the side setback. Note, however, that the rule applies only to structures that are no more than 10 feet in width and 1 story in height. Certain exceptions apply. See the Town code or ask Town staff for assistance.

(c) Cornices and eaves, outside stairways, chimneys, air conditioners and heat pumps. (Sec. 4.4(f)(3)).

Cornices and eaves can extend up to 2 ½ feet beyond the front, rear, and side setbacks. Sills, leaders, belt courses, and similar ornamental features can extend up to 6 inches beyond the setbacks.

(d) Outside stairways (Sec. 4.4(f)(3)).

Outside stairways can extend up to 5 feet beyond the rear setback; they cannot extend beyond the side or front setbacks.

(f) Chimneys. (Sec. 4.4(f)(3)).

Chimneys can extend up to 2 feet beyond the front, rear, or side setbacks..

(g) Air conditioners and heat pumps. (Sec. 4.4(f)(3)).

Air conditioners and heat pumps can extend up to 5 feet beyond the front or rear setbacks; they cannot extend beyond the side setbacks. Exceptions apply. See the Town code or ask Town staff for assistance.

Can I build onto a nonconforming structure?

Yes. If your house is developmentally nonconforming (which means that it was lawful when it was built, but due to changes in regulations some aspect of it no longer conforms to the Town Code), you can put on an addition or make an external alteration provided the new construction conforms to current Town regulations.. So, for example, if your house violates the current side setbacks, you could put on a rear addition, but the sides of that addition would have to be set inside the current side setbacks so would be offset from the sides of your existing house. Similarly, if there is a one-story portion of your house that is nonconforming, you could not build on top of it. .(Sec. 4.7)

Changes to my front yard. (Sec. 4.3(e))

The non-vegetative surface area of a *front yard* cannot exceed 35 percent of the area of the front yard. For corner lots, the limitation applies only to the yard in front of the architectural front facade of the house. (Figure 2) For lots that front Bradley Lane, Connecticut Avenue or East West Highway, special rules apply. See the Town code or ask Town staff for help.

What must I do to protect streets and sidewalks from my construction activity?

- You must erect and clearly mark barricades and safety barriers whenever your construction activity would block pedestrian or vehicular traffic. Without written permission, a blockage can exist no longer than 10 days. Construction debris cannot be stored on a street, sidewalk, curb, gutter, or grassy area. Mud or dirt on a public right-of-way must be removed daily. (Sec. 4.8(b) & (c)).

●Following construction, the restoration of a public right-of-way, including driveways and aprons in a public right-of-way, is the responsibility of the homeowner (that is, the building permit holder). In the event the homeowner fails to discharge this obligation, the Town will do the work and charge the permit holder all associated costs. A cash, surety or performance bond sufficient to cover the cost of restoring the right-of-way may be required before a building permit is issued. (Sec. 4.8 (a)). See the Driveway Chapter

Is a variance possible?

●Yes. A variance is a deviation from the Town's building code that is permitted under certain circumstances. For example, where a property is exceptionally narrow, shallow, or otherwise peculiar in shape or topographical conditions a variance might be granted. (Secs. 4.9 & 4.10).

●The Town Council is prohibited from granting a variance unless; (i) extraordinary situations or conditions peculiar to a specific parcel exist; (ii) the variance is necessary to overcome the exceptional condition and it will not be detrimental to neighboring properties or the integrity of the Town's general plan; and (iii) the existing condition makes it impossible or impractical or causes unusual difficulties or undue hardship on the owner to comply with the Town code.

●Decisions of the Town Council involving variances can be appealed to the Maryland courts.

Relevant provisions of the Town Code

In Chapter 4 (Buildings):

- Sec. 4-1 (Definitions)
- Sec. 4.2 (Building permit, in general)
- Sec. 4.3(b) (Maximum height)
- Sec. 4.3(c) (Maximum floor area)
- Sec. 4.4(a)(Front setback)
- Sec. 4.4(b)(Side setback)
- Sec. 4.4(c)(Rear setback)
- Sec. 4.4(d)(Corner lots)
- Sec. 4.4(f)(Exemptions from yard requirements for projections)
- Sec. 4.5(f), (g), & (h)(relating to front-loading garages)
- Sec. 4.7(Developmental nonconformities)
- Sec. 4.8 (Protection of streets, sidewalks, etc.).

In Chapter 28 (Water Drainage):

- Sec. 28-3 (Applicability).

In Chapter 29 (Urban Forest).

- Sec. 29-4 (Permit required)
- Sec. 29-12 (Tree protection plans).

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