





Zoning Text Amendment (ZTA) No. 12-10, Established Building Line

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Description

Completed 8/30/12

ZTA No. 12-10 proposes to amend the provisions for determining the established building line and to amend the applicability of the established building line requirement. The current established building line provision lists buildings that are excluded from the established building line setback calculation. The ZTA attempts to clarify that when a new building is to be constructed on a site where a previous building was not subject to the required setback calculation, the new building will be subject to the established building line setback provision.

Summary/Analysis

Staff recommends approval of ZTA 12-10, as introduced, to amend the provisions for determining the established building line and amend the applicability of the established building line requirement. Although the proposed language addition appears redundant, staff has no objection to the clarification being made.

Section 59-A-5.33(c) of the Montgomery County Zoning Code reads as follows:

(c) The established building line is the minimum setback for the zone, unless there are at least two buildings as described in subsection (b) and more than 50 percent of the buildings described in subsection (b) are set back greater than the minimum, in which case the average setback of all the buildings described in subsection (b), excluding those buildings:

- (1) in the R-200 zone that are or were ever served by well or septic;*
- (2) on the subject property;*
- (3) in a different zone than the subject property;*
- (4) on a through lot that fronts on a street different than the subject property;*
- (5) located on any pipestem, wedge-shaped, or flag-shaped lot; or*
- (6) approved by permit for demolition, except if a building permit was also approved with the same setback,*

is the established building line, unless the applicant chooses to calculate the setback as the average setback of the two adjoining lots or the applicant chooses to use the front setback of the existing one-family building that was established before [demotion] demolition, excluding any approved variance, if the existing building meets the minimum setback of the zone. All calculations must be based on a survey that is signed and sealed by a licensed engineer or surveyor. Any building excluded from the established building line restriction must comply with the minimum setback requirement of the zone.

The established building line provision lists buildings that are excluded from the setback calculation. The ZTA attempts to clarify that any new building on the site of a building excluded from calculating the required setback is still subject to the established building line setback provision which is, at a minimum, the minimum setback for the zone (depending on the setback of the adjoining lots or lots along the same side of the street within 300 feet, as described in Section 59-A-5.33(b)). The ZTA adds a new subsection "d" of Section 59-A-5.33 that reads as follows:

(d) New buildings identified by the numbered items in subsection (c) must satisfy the setback requirements of subsection (c).

ATTACHMENTS

1. ZTA 12-10 as introduced

GR/RK/am

ATTACHMENT 1

Zoning Text Amendment No.: 12-10
Concerning: Established Building Line
- Clarification
Draft No. & Date: 1 - 6/22/12
Introduced:
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President Berliner

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- amend the provisions for determining the established building line; and
- amend the applicability of the established building line requirement.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-5. "Compliance Required."
Section 59-A-5.33. "Established building line."

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-A-5 is amended as follows:**

2 DIVISION 59-A-5. COMPLIANCE REQUIRED.

3 * * *

4 **59-A-5.33. Established building line.**

5 (a) The established building line, as defined in Section 59-A-2.1, applies
6 only to new buildings in the R-60, R-90, R-150, and R-200 zones. The
7 established building line does not apply to an alteration or addition to an
8 existing building.

9 (b) The two or more one-family detached residential buildings considered in
10 determining the established building line must all be:

11 (1) within 300 feet of the side property line of the proposed
12 construction site, measured along the street frontage;

13 (2) along the same side of the street;

14 (3) between intersecting streets or to the point where public
15 thoroughfare is denied;

16 (4) in existence or approved by a building permit when the building
17 permit application on the subject property is filed;

18 (5) legally constructed; and

19 (6) not on a through lot if the building on the through lot fronts on a
20 street other than the street fronting the subject property.

21 (c) The established building line is the minimum setback for the zone,
22 unless there are at least two buildings as described in subsection (b) and
23 more than 50 percent of the buildings described in subsection (b) are set
24 back greater than the minimum, in which case the average setback of all
25 the buildings described in subsection (b), excluding those buildings:

26 (1) in the R-200 zone that are or were ever served by well or septic;

27 (2) on the subject property;

28 (3) in a different zone than the subject property;

- 29 (4) on a through lot that fronts on a street different than the subject
- 30 property;
- 31 (5) located on any pipestem, wedge-shaped, or flag-shaped lot; or
- 32 (6) approved by permit for demolition, except if a building permit
- 33 was also approved with the same setback,
- 34 is the established building line, unless the applicant chooses to calculate
- 35 the setback as the average setback of the two adjoining lots or the
- 36 applicant chooses to use the front setback of the existing one-family
- 37 building that was established before [demotion] demolition, excluding
- 38 any approved variance, if the existing building meets the minimum
- 39 setback of the zone. All calculations must be based on a survey that is
- 40 signed and sealed by a licensed engineer or surveyor. Any building
- 41 excluded from the established building line restriction must comply with
- 42 the minimum setback requirement of the zone.
- 43 (d) New buildings identified by the numbered items in subsection (c) must
- 44 satisfy the setback requirements of subsection (c).
- 45 (e) Corner lots have two front yards and are subject to established building
- 46 line standards on both streets. At the option of the applicant, a corner lot
- 47 may use front setbacks of the adjoining buildings on both sides of the
- 48 corner lot.

49 * * *

50 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
51 date of Council adoption.

52

53 This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council