



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Office of the Executive Director

MCPB
Item # 5
01/02/04

DATE: January 2, 2004
TO: Montgomery County Planning Board
VIA: Carlton Gilbert, Zoning Supervisor
FROM: Greg Russ, Zoning Coordinator
REVIEW TYPE: Zoning Text Amendment
PURPOSE: To amend the Zoning Ordinance to exclude certain lots in the R-200 zone from the established building line requirement.

TEXT AMENDMENT: No. 03-28
REVIEW BASIS: Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance
INTRODUCED BY: Councilmember Knapp
INTRODUCED DATE: December 9, 2003

PLANNING BOARD REVIEW: January 8, 2004
PUBLIC HEARING: January 13, 2004; 1:30pm

STAFF RECOMMENDATION: APPROVAL WITH MODIFICATIONS

PURPOSE OF THE TEXT AMENDMENT

To amend the Zoning Ordinance to exclude certain lots in the R-200 zone from the established building line requirement.

BACKGROUND/ANALYSIS

The proposed text amendment would exclude lots in the R-200 zone designated for septic service from the established building line requirement. The established building line is the minimum setback for the zone, unless more than 50 percent of the buildings are set back greater than the minimum, in which case the average setback of all the buildings is the established building line. The established building line is applicable only in the R-60, R-90, R-150 and R-200 zones. Conformance to the established building line has been a problem for properties in the R-200 zone served by septic. In any particular situation the house may have to be sited forward or behind the established line to accommodate septic system requirements.

The proposed text amendment language is as follows:

59-A-5.33. Established building line.

(a) *[An] The established building line, [is] as defined in [Sec.] 59-A-2.1, [and] applies only in the R-60, R-90, R-150 and R-200 zones.*

* * *

(c) *The established building line is the minimum setback for the zone, unless more than 50 percent of the buildings [as defined] described in (b) [above] are set back greater than the minimum, in which case the average setback of all the buildings [as defined] described in (b) [above] is the established building line excluding those buildings in the R-200 zone that are served by well or septic.*

* * *

The existing language of subsection (b) as referenced in subsection (c) above is as follows:

(b) *The buildings considered in determining the established building line must:*

- (1) *be within 300 feet of the side property line of the proposed construction site (excluding corner lots);*
- (2) *be along the same side of the street;*
- (3) *be between intersecting streets or to the point where public thoroughfare is denied;*
- (4) *exist at the time when the building permit application is filed;*
- (5) *not be nonconforming, unlawfully constructed, or constructed pursuant to a lawfully granted variance; and*
- (6) *not be located on a pipestem or flag-shaped lot.*

Staff has no objection to the exclusion from the established building line requirement for those R-200 zoned properties that are served by well or septic since, at a minimum, the minimum setback from a street for a main building will continue to be adhered to. Staff is recommending plain language modifications to the proposed text amendment to further clarify the intent of the proposal.

RECOMMENDATION

The staff recommends approval of the proposed text amendment to amend the Zoning Ordinance to exclude certain lots in the R-200 zone from the established building requirement.

Attachment 1 depicts the proposed text amendment as modified by staff with plain language changes.

GR

Attachments

1. Proposed Text Amendment 03-28 as modified.

Zoning Text Amendment No: 03-28
Concerning: Lots in R-200
Draft No. & Date: 1 – 10/28/03
Introduced: December 9, 2003
Public Hearing: January 13, 2004;
1:30 PM
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: Councilmember Knapp

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- excluding certain lots in the R-200 zone from the established building requirement.

By amending the following section 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 laws
by the original text amendment.
[Single boldface brackets] indicate text that is deleted from
existing law by the 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:

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

DIVISION 59-A-5. COMPLIANCE REQUIRED.

* * *

59-A-5.33. Established building line.

(a) [An] The established building line, [is] as defined in [Sec.] 59-A-2.1, [and] applies only in the R-60, R-90, R-150 and R-200 zones.

* * *

(c) The established building line is the minimum setback for the zone, unless more than 50 percent of the buildings [as defined] described in (b) [above] are set back greater than the minimum, in which case the average setback of all the buildings [as defined] described in (b), [above] excluding those buildings in the R-200 zone that are served by well or septic, is the established building line. [[excluding those buildings in the R-200 zone that are served by well or septic.]]

* * *

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

This is a correct copy of Council action.

Mary A. Edgar, CMC
Clerk of the Council