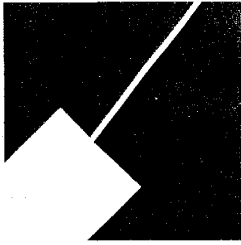


M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760  
301-495-4500, [www.mncppc.org](http://www.mncppc.org)

**MCPB**  
**Item #15**  
**06/15/06**

**DATE:** June 2, 2006  
**TO:** Montgomery County Planning Board  
**VIA:** Rose Krasnow, Chief, Development Review *RK*  
Carlton Gilbert, Zoning Supervisor *CG*  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
**REVIEW TYPE:** Zoning Text Amendment  
**PURPOSE:** To amend the Zoning Ordinance to clarify that the established building line requirements apply only if there are at least two existing residential dwellings that are not non-conforming and are within 300 feet of the side property line of the proposed construction site; and generally to amend the established building line standards.

**TEXT AMENDMENT:** No. 06-13  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59 of the Zoning Ordinance  
**INTRODUCED BY:** District Council at the request of the County Executive  
**INTRODUCED DATE:** April 25, 2006

**PLANNING BOARD REVIEW:** June 15, 2006  
**PUBLIC HEARING:** June 13, 2006; 1:30pm

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**STAFF RECOMMENDATION:** APPROVAL WITH MODIFICATIONS

**PURPOSE OF THE TEXT AMENDMENT**

To amend the Zoning Ordinance to clarify that the established building line requirements apply only if there are at least two existing residential dwellings that are not non-conforming and are within 300 feet of the side property line of the proposed construction site; and generally to amend the established building line standards.

**BACKGROUND/ANALYSIS**

The established building line is the minimum setback for the zone, unless more than 50 percent of the buildings (as described in "b" below) are set back greater than the

minimum, in which case the average setback of all the *applicable* 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. The text amendment clarifies that there is a requirement to have at least two existing buildings in order to average the setback along a street. This clarification addresses an interpretation issue on whether it is appropriate to require an established building line when there is only one building considered applicable in determining the line.

The proposed text amendment language is as follows:

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

- (a) *The established building line, as defined in 59-A-2.1, applies only in the R-60, R-90, R-150 and R-200 zones.*
- (b) *The two or more buildings considered in determining the established building line must:*
  - (1) *all be within 300 feet of the side property line of the proposed construction site (excluding corner lots);*
  - (2) *all be along the same side of the street;*
  - (3) *all be between intersecting streets or to the point where public thoroughfare is denied;*
  - (4) *all 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.*
- (c) *The established building line is the minimum setback for the zone, unless there are [[more than]] at least two buildings as described in (b) and more than 50 percent of the buildings described in (b) are set back greater than the minimum, in which case the average setback of all the buildings described in (b) excluding those buildings in the R-200 zone that are served by well or septic, is the established building line. Any building excluded from the established building line restriction must comply with the minimum setback requirement of the zone.*
- (d) *Corner lots have two front yards and are subject to established building line standards on both streets.*

Staff is recommending clarification language in line two of subsection "c" above to change the words "more than" to "at least". This change further clarifies that it is necessary to have a minimum of two existing applicable buildings in determining an established building line requirement. Otherwise, the minimum setback of the zone applies.

### **RECOMMENDATION**

The staff recommends approval of the proposed text amendment to amend the Zoning Ordinance to clarify that the established building line requirements apply only if there are at least two existing residential dwellings that are not non-conforming and are within 300 feet of the side property line of the proposed construction site.

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

GR

#### **Attachments**

1. Proposed Text Amendment 06-13 as modified.

# ATTACHMENT 1

Zoning Text Amendment No.:06-13  
Concerning: Established building line  
Draft No. & Date: 1 – 4/21/06  
Introduced: 4/25/06  
Public Hearing: 6/13/05  
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**

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District Council at the Request of the County Executive

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

- clarifying that the established building line requirements apply only if there are at least two existing residential dwellings that are not non-conforming and within 300 feet of the side property line of the proposed construction site; and
- generally amending the established building line standards

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

Division 59-A. In General

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:*

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

2   **DIVISION 59—In General**

3   \* \* \*

4   59-A-5.33.   Established building line.

5           (a)   The established building line, as defined in 59-A-2.1, applies only in the R-60, R-  
6   90, R-150 and R-200 zones.

7           (b)   The two or more buildings considered in determining the established building line  
8   must:

9                   (1)   all be within 300 feet of the side property line of the proposed construction  
10   site (excluding corner lots);

11                   (2)   all be along the same side of the street;

12                   (3)   all be between intersecting streets or to the point where public  
13   thoroughfare is denied;

14                   (4)   all exist at the time when the building permit application is filed;

15                   (5)   not be nonconforming, unlawfully constructed, or constructed pursuant to  
16   a lawfully granted variance; and

17                   (6)   not be located on a pipestem or flag-shaped lot.

18           (c)   The established building line is the minimum setback for the zone, unless there  
19   are [[more than]] at least two buildings as described in (b) and more than 50 percent of the  
20   buildings described in (b) are set back greater than the minimum, in which case the average  
21   setback of all the buildings described in (b) excluding those buildings in the R-200 zone that are  
22   served by well or septic, is the established building line. Any building excluded from the  
23   established building line restriction must comply with the minimum setback requirement of the  
24   zone.

25           (d)   Corner lots have two front yards and are subject to established building line  
26   standards on both streets.

27  
28           **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of  
29   Council adoption.

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32   This is a correct copy of Council action

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Linda M. Lauer, Clerk of the Council

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