

ORDINANCE NO. 18-18(5)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, are hereby amended and reordained as follows:

By Amending:

- Sec. 4.11.1 Covered Porches, Balconies, Chimneys, and Like Features
- Sec. 4.11.2 Accessory Structures in Required Yards
- Sec. 4.11.3 Reduction of Building Separation and Side Yard
- Sec. 4.19 Setbacks and Stepbacks in Residential Districts

CHAPTER 18. ZONING

ARTICLE II. BASIC REGULATIONS

...

4.11.1 COVERED PORCHES, BALCONIES, CHIMNEYS AND LIKE FEATURES

Covered porches, balconies, chimneys, eaves and like architectural features may project not more than four (4) feet into any required yard; provided that no such feature shall be located closer than five (5) feet from any side lot line in a non-infill development within the R-1, R-2, R-4, R-6, R-10, R-15, PRD, or PUD districts, and no closer than six (6) feet from any other lot line. (Amended 9-9-92)

4.11.2 ACCESSORY STRUCTURES IN REQUIRED YARDS

Accessory structures are authorized in required yards as follows:

- a. *Front yards.* Accessory structures, including detached garages, are prohibited within the minimum front yard required by the applicable district regulations except as otherwise provided in subsection (c).
- b. *Side and rear yards.* Accessory structures are permitted in side and rear yards, provided that they are erected no closer than five (5) feet from any side lot line in a non-infill development within the R-1, R-2, R-4, R-6, R-10, R-15, PRD, or PUD districts, and no closer than six (6) feet from any other side or rear property lines or, in the case of an alley or a shared driveway, no closer than three (3) feet to the edge of the easement or right-of-way of the alley or shared driveway except as otherwise provided in subsection (c). The zoning administrator may authorize an accessory structure to be located closer to the edge of an alley easement or right-of-way if the county engineer determines that the proposed design incorporates features that assure public safety and welfare. In making the determination, the county engineer shall consider the provision of adequate access to required onsite parking and/or garages, unimpeded vehicular circulation along the alley, an adequate clear zone along the alley, and other safety issues deemed appropriate for the conditions.
- c. *Accessory structures permitted in required yards.* The following accessory structures are permitted in required yards provided that they comply with the visibility clearance requirements of section 4.4:
 - 1. Fences, including free-standing walls enclosing yards and other uncovered areas.
 - 2. Freestanding mail and newspaper boxes.
 - 3. Retaining walls.

4. Shelters for school children traveling to and from school.
 5. Public telephone booths, provided that: (i) the telephones are equipped for emergency service to the public without prior payment; (ii) the zoning administrator determines that the location of the booth will not adversely affect the safety of the adjacent street; and (iii) the booth shall be subject to relocation at the expense of the owner, whenever relocation is determined by the zoning administrator to be reasonably necessary to protect the public health, safety and welfare or whenever relocation is necessary to accommodate the widening of the adjacent street.
 6. Automated teller machines.
- d. *Accessory structures located closer than three (3) feet to primary structure.* Accessory structures for which any part is located closer than three (3) feet to any part of a primary structure shall comply with the minimum applicable yard requirements for a primary structure.
- (§ 4.11.2, 12-10-80, 3-18-81; § 4.11.2.1, 12-10-80, 1-1-83, Ord. 02-18(2), 2-6-02; § 4.11.2.2, 12-10-80, 3-18-81, § 4.11.2.3, 3-18-81; Ord. 09-18(4), 7-1-09)

4.11.3 REDUCTION OF BUILDING SEPARATION AND SIDE YARDS (Added 1-1-83, Amended 6-11-08)

The minimum building separation or side yards for primary structures may be reduced or eliminated if the structure is located in an area where available fire flows are adequate under Insurance Service Offices standards to allow the reduction. Each primary structure for which the minimum building separation or side yard has been reduced or eliminated as provided in this section shall be subject to the following:

- A. In the case of a side yard reduction or elimination, the Albemarle County fire official may require a guarantee as deemed necessary to insure compliance with the provisions of this section, and this guarantee may include, but not be limited to, appropriate deed restrictions, disclosure, and other such instruments, which shall be of a substance and be in a form approved by the fire official and the county attorney, and shall be recorded in the records of the circuit court of the county;
- B. No structure may encroach within any emergency accessway required by the Albemarle County fire official;
- C. No structure may encroach on any utility, drainage or other easement, or on any feature required by this chapter or other applicable law.
- D. The subdivider shall submit with the final subdivision plat a lot development plan showing all the lots with reduced or zero setbacks and delineating the location of each affected dwelling unit;
- E. The subdivider shall establish perpetual building maintenance easement(s) adjacent to each reduced or zero setback so that, with the exception of fences, a minimum width of ten (10) feet between dwelling units shall be kept clear of structures in perpetuity. This easement shall be shown on the final plat, shall be of a substance and be in a form approved by the director of community development and the county attorney, shall be recorded in the records of the circuit court of the county with the approved final subdivision plat, and shall be incorporated by reference in each deed transferring title to each lot that is a dominant and servient estate; and
- F. Building footings may penetrate the easement on the adjacent lot to a maximum distance of eight (8) inches.
- G. No portion of the building, including overhangs and footings, may cross the property line.

(1-1-83; 10-15-86; Ord. 08-18(4), 6-11-08)

4.19 SETBACKS AND STEPBACKS IN RESIDENTIAL DISTRICTS

The following shall apply within the R-1, R-2, R-4, R-6, R-10, R-15, PRD, and PUD districts:

Infill: Setbacks	
Front-Minimum	Closest setback of an existing main building within 500 feet in each direction along the same side of the street fronted
Front-Maximum	None
Garage-Minimum	Front loading attached or detached garage: Whichever is greater between the closest setback of an existing main building within 500 feet in each direction along the same side of the street fronted or 18 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way Side loading garage: Closest setback of an existing structure within 500 feet in each direction along street fronted
Garage-Maximum	None
Side-Minimum	10 feet, unless the building shares a common wall; provided that (a) in the R-10 and R-15 districts if the abutting lot is zoned residential other than R-10 and R-15, Rural Areas, or the Monticello Historic district, any dwelling unit that exceeds 35 feet in height shall be set back 10 feet plus one foot for each foot the dwelling unit exceeds 35 feet in height; and (b) any minimum side setback otherwise required by this section may be reduced in accordance with section 4.11.3.
Side-Maximum	None
Rear-Minimum	20 feet
Rear- Maximum	None
Infill: Stepbacks	
Front	For each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum stepback shall be a minimum of 15 feet
Side and Rear	None
Non-Infill: Setbacks	
Front-Minimum	5 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way
Front-Maximum	In the R-1 and R-2 districts: None In the R-4, R-6, R-10, and R-15 districts: 25 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; none, on any lot, including a corner lot, abutting a principal arterial highway or interstate
Garage-Minimum	Front loading garage: 18 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way Side loading garage: 5 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way

Garage-Maximum	None
Side-Minimum	5 feet, unless the building shares a common wall; provided that (a) in the R-10 and R-15 districts if the abutting lot is zoned residential other than R-10 and R-15, Rural Areas, or the Monticello Historic district, any dwelling unit that exceeds 35 feet in height shall be set back 5 feet plus one foot for each foot the dwelling unit exceeds 35 feet in height; and (b) any minimum side setback otherwise required by this section may be reduced in accordance with section 4.11.3.
Side-Maximum	None
Rear-Minimum	20 feet
Rear- Maximum	None
Non-Infill:Building Separation	
Minimum	10 feet, unless the building shares a common wall; provided that in the R-10 and R-15 districts if the abutting lot is zoned residential other than R-10 and R-15, rural areas, or the Monticello Historic district, any building that exceeds 35 feet in height shall be separated from any other building by 10 feet plus one foot for each foot the building exceeds 35 feet in height
Side-Maximum	None
Non-Infill: Stepbacks	
Front	For each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum stepback shall be 15 feet
Side and Rear	None

1. Whether a site is an infill or non-infill development, and the minimum and maximum setback, shall be determined by the zoning administrator as an official determination provided to the owner.
2. Any minimum setback and any minimum building separation for a side yard, may be reduced by special exception.
3. The maximum front setback for a non-infill development shall be increased to the depth necessary to avoid existing utilities, significant existing vegetation steep slopes, perennial and intermittent streams, stream buffers, public spaces and public plazas shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple buildings on the same lot and prevailing development patterns. On any parcel with multiple main buildings, at least one main building shall meet the maximum setback.
4. The maximum front setback for a non-infill development may be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.
5. The minimum 15 foot stepback applies to all buildings on the property and may be reduced by special exception.
6. Notwithstanding section 4.6.3, the front setbacks in the districts subject to this section shall be measured from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way.
7. On any site subject to proffered conditions accepted in conjunction with a zoning map amendment establishing minimum or maximum setbacks or stepbacks, the proffered setbacks or stepbacks shall apply.

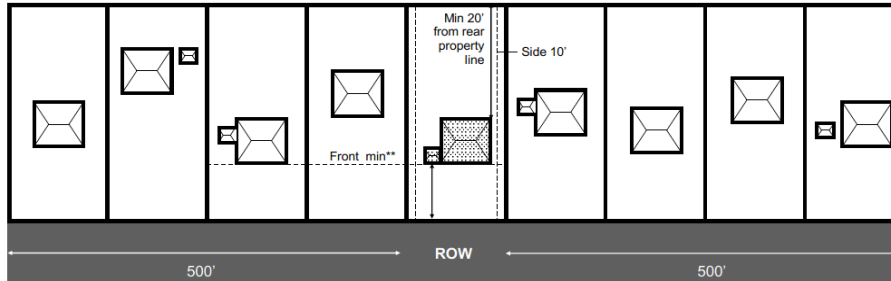
Figures

Figures 1 through 4 are for illustration purposes only. If there is a conflict or inconsistency between a regulation in section 4.19 to which a Figure pertains and the Figure itself, the regulation is controlling. In

addition, Figures 1 through 4 merely illustrate specific requirements and do not show all applicable requirements of the applicable district regulations.

Figure 1

Conventional Residential Districts, Infill* Example

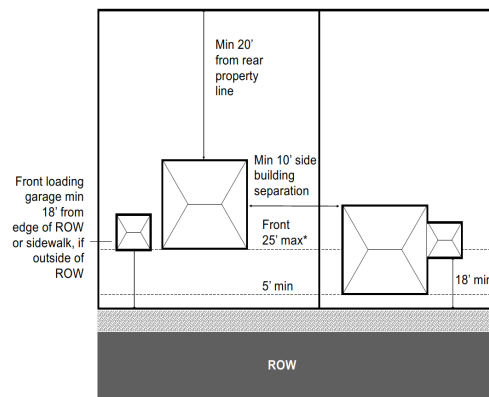


* Infill $\geq 40\%$ of residentially zoned frontage developed within 500' of subject lot (frontage $\leq 120'$)

** Front loading garage min 18' from edge of ROW or sidewalk, if outside of ROW

Figure 2

Conventional Residential Districts (except R-1 and R-2), Non-infill



* No maximum front setback in R1 & R2 districts & along principal arterials

Figure 3

**Conventional Residential Districts
Front Stepback (side view)**

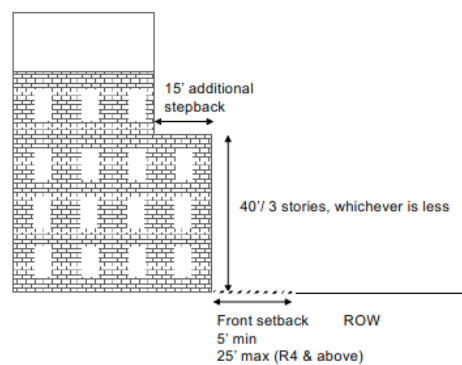
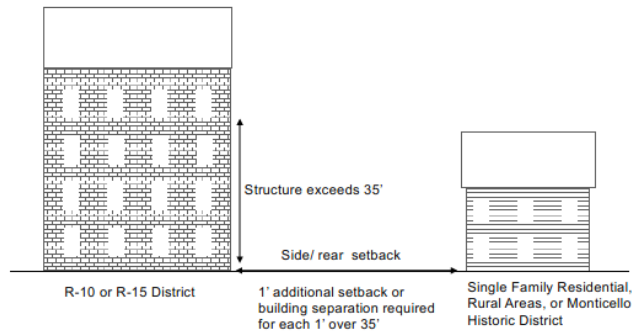


Figure 4

**Conventional Residential Districts (R-10 or R-15 only)
Abutting Single Family Residential, Rural Areas, or
Monticello Historic Districts, Side & Rear Setback**



State law reference – Va. Code § 15.2-2280

(Ord. 15-18(4), 6-3-15; Ord. 16-18(1), 3-2-16; Ord. 17-18(4), 8-9-17)

...

I, Claudette K. Borgersen, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	_____	_____
Mr. Gallaway	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____