



## Land Development News

# Technical Memorandum

**Subject:** Zoning Ordinance Amendment ZOA-09-419 on  
Single Family Detached Dwelling Grade

**Date:** September 15, 2009    **No.:** 09-12

**Summary:** Revises grade definition to stipulate that the lower average ground level of either pre-existing or finished grade be used when measuring single family detached dwelling height.

**Effective Date:** Immediately

**Background:** In a response to a request from the Board of Supervisors (Board), staff examined possible ways to address the “looming” impacts of building larger (taller) houses adjacent to smaller (shorter) houses in established neighborhoods. Of major concern is the practice whereby a lot is artificially elevated with fill dirt resulting in the construction of taller houses that have an ‘effective’ height greater than the maximum permitted height of 35 feet.

To address this practice, the Board adopted Zoning Ordinance Amendment ZO-09-419 on September 14, 2009, with an effective date of September 15, 2009. This amendment revised the Zoning Ordinance grade definition by stipulating that for determining building height for single family detached dwellings, grade is the lower average ground level of the pre-development or finished elevations. Grade is to be established at the time of Building Permit issuance to allow for clearing and grading that may be necessary to construct infrastructure for larger residential development, such as road, stormwater and utility improvements, that precede individual lot development and/or final lot grading.

Effective 12:01 a.m. September 15, 2009, all grading plans (bonded and infill plans) and Height Certifications for single family detached dwellings shall include a calculation and certification of building height utilizing the newly adopted Zoning Ordinance grade definition. Building height certification must now include two separate calculations to determine the average grade. One calculation will utilize elevation points around the perimeter of the proposed structure, utilizing the existing pre-development grade, and the other calculation will utilize elevation points using the proposed finished grade. The lower average grade will then be utilized in the building height calculation for the structure.

Additions to single family detached dwellings or new detached dwellings on existing foundations that do not require a grading plan will be required to include information/dimensions on architectural drawings to allow staff to verify the height of the addition or new structure. In the event that an addition or a new dwelling on an existing foundation measures 30 feet or more in height, based on the information provided by the applicant, a height certification may be required, either before the building permit is approved, or after construction but before the final inspection is approved. This will not be a typical requirement for single story additions; however, depending on the level of information provided, staff will be conservative in ensuring that the proposal is not exceeding 35 feet in height. As noted above, such height certifications shall include elevation points for both the existing pre-development and the finished ground levels to determine the lowest average grade for calculating the height of the structure.

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As specified in the June 29, 2006 Letter to Industry regarding the methodology for determining building height, the method for determining average finished grade will also be applicable in determining average existing pre-development grade. (Please reference the June 29, 2006 Letter to Industry #06-13, "Certification of Building Heights for Single Family Detached and Townhouse Units")

The current practice of requiring as-built height certifications for any detached dwelling planned to be between 33 feet to 35 feet in height will continue, but will now require both the existing pre-development and final grade information. It is noted that inspectors can also require as-built height certifications to confirm actual height.

The following are grandfathered from ZO-09-419, the newly adopted grade methodology for determining building height for single family detached dwellings:

- All special permit, special exception and proffered rezoning applications and amendments thereto that set forth building heights for single family detached dwellings, when approved prior to September 15, 2009.
- Building and grading plans submitted prior to September 15, 2009, provided:
  - i. The grading plan and building permit are approved within 12 months of the return of the initial submission to applicant/agent;
  - ii. The plan or permit does not expire;
  - iii. A building permit for the structure(s) shown on the approved plan is issued; and,
  - iv. The structure is constructed in accordance with the approved permit.
- Any other circumstances giving rise to a vested right as set forth in VA Code Ann. Sect. 15.2-2307.

Approved by:

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Director, Land Development Services  
Department of Public Works and  
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Eileen M. McLane  
Zoning Administrator

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