



Land Development News

Technical Memorandum

Subject: Compliance with the Minimum Yard and Location Requirements of the Zoning Ordinance

Date: February 3, 2010 **No.:** 10-02

Summary: In instances where proposed construction is within two feet of a required yard(s) a setback certification will be required for single family detached dwelling units to ensure compliance with the applicable minimum yard requirements of the Zoning Ordinance, as well as proffers or development conditions relating to yard requirements. The need for a setback certification for other types of structures associated with a detached dwelling, including accessory structures, will be determined on a case-by-case basis during the review of the building permit application.

Effective Date: April, 1, 2010

Background: The Zoning Ordinance contains minimum yard requirements relating to single family detached dwelling units. In addition, yard requirements may be proffered or required by development conditions associated with an approved zoning application. When improvements are constructed in proximity to these limits, it is not always possible for an inspector to determine by visual inspection if the construction is compliant with the requirements. In instances where a visual inspection is not sufficient, inspectors have requested that a setback certification be performed to verify compliance prior to the issuance of a Residential Use Permit (RUP). Identifying the need for a setback certification earlier in the process would assist both applicants and County inspectors. Therefore, staff of Land Development Services (LDS) and the Department of Planning and Zoning (DPZ) has developed a process to alert both applicants and County inspectors, at the time of building permit issuance, if a setback certification will be required.

Requirement: Effective April 1, 2010, setback certifications will be required for all new single family detached dwellings and additions to existing single family detached dwellings where the proposed structure is within 2 feet or less of the minimum yard requirement. The need for a setback certification will be determined by staff of DPZ during their review of building permit applications. If a setback certification is required, a notation regarding the requirement will be made to the file for the building permit application in the Fairfax Inspections Database On-line (FIDO) system. In addition, the building permit, and grading plan, if applicable, will contain a notation regarding the need for a setback certification. The setback certification survey shall verify compliance with the minimum yard requirements of the Zoning Ordinance prior to the issuance of the RUP in the case of new single family detached dwellings; and prior to approval of the final inspection for additions to single family dwellings. The setback certification must be prepared, sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations.

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Please note, that if an inspector deems a setback certification to be necessary to verify regulatory compliance, then he or she will require one whether or not the need for the survey was identified during review of the building permit application.

As stated above, if a setback certification is deemed necessary, the RUP will not be issued until the certification is submitted to DPZ and the structure is verified as compliant with the Zoning Ordinance. In the case of additions where the final building inspection serves as the occupancy permit, county inspectors will be requesting documentation of an approved certification prior to conducting the final inspection. Applicants are encouraged to verify setbacks prior to requesting the framing inspection, if not earlier, so that problems can be identified and corrected early in the construction process.

The setback certification must include the distance from the dwelling unit, including any extensions from the vertical plane of the structure (such as eaves, bay windows, chimneys, etc.), to the lot line or lines in question. In the event that an eave is encroaching into a minimum required yard, the setback certification must also include the height of the eave above the finished ground level, in accordance with Par. 1A of Sect. 2-412 of the Zoning Ordinance. If all structures on the property and their respective distances to all lot lines are shown on the setback certification, the setback certification may also serve as the as-built house location survey plat required for new single family detached dwellings pursuant to Par. 13 of Sect. 18-704 of the Zoning Ordinance.

Five copies of the setback certifications shall be submitted to the Zoning Administration Division, Ordinance Administration Branch, DPZ, located in Suite 807 of the Herrity Building, 12055 Government Center Parkway, Fairfax, Virginia 22035. Questions regarding the submission and processing of setback certifications should be directed to the Ordinance Administration Branch at 703-324-1314.

If you have any questions, please contact please contact Michelle Brickner, Department of Public Works and Environmental Services at 703-324-1780 or Leslie Johnson, Department of Planning and Zoning at 703-324-1314, **TTY 711**.

Approved by:

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