



FAIRFAX
COUNTY

STAFF REPORT

VIRGINIA

PROPOSED ZONING ORDINANCE AMENDMENT

Articles 8, 10, 18 and Appendix 2 - Minimum Required Rear Yard Coverage Limitations
for Single Family Detached Dwellings

PUBLIC HEARING DATES

Planning Commission

April 18, 2018 at 7:30 p.m.

Board of Supervisors

May 15, 2018 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

March 20, 2018

CVJ



Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice.
For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

This proposed amendment is on the 2017 Priority 1 Zoning Ordinance Amendment Work Program. Staff initiated it in response to issues that regularly arise on residential properties with numerous or large accessory structures and uses located in the minimum required rear yard. Under the current Zoning Ordinance, accessory structures and uses may not occupy more than 30% of the minimum required rear yard by right. There are only limited mechanisms for requesting an increase in coverage. In a conventional residential district (R-District), a variance application requires stringent standards to be met. In a planned district (P-District), a Final Development Plan Amendment (FDPA) is required to increase the percentage of minimum required rear yard coverage. The Board has specifically asked staff to clarify how the 30% limitation within the minimum required rear yard was determined, to consider increasing the percentage of coverage permitted and potentially eliminate the requirement for certain sized lots, and to consider allowing modifications of the maximum lot coverage requirement in a rear yard to be approved by the Board of Zoning Appeals as a special permit.

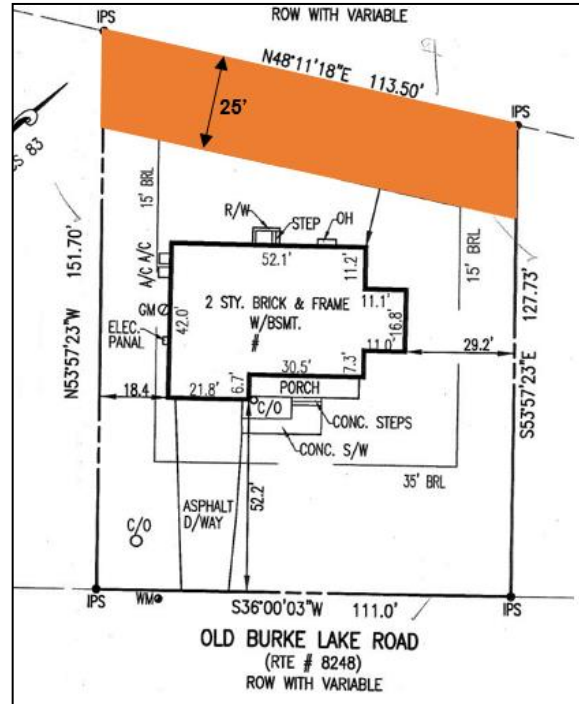
Background

The limitation on rear yard coverage serves two main purposes. First, it reduces the bulk impact of structures or uses on adjacent properties, thereby mitigating the intensity of visual “clutter” and noise occurring at the closest point to neighboring properties. Second, it limits the area covered by impervious structures or surfaces in the minimum required yard and thus limits the environmental impacts on adjacent property owners caused by stormwater runoff. Staff regularly encounters plats and surveys of single family detached residential properties showing accessory uses and structures that cover more than 30% of the minimum required rear yard. Most often, staff identifies violations of this provision when residents pursue other zoning approvals, apply for building permits, or attempt to resolve unrelated zoning violations. The most common accessory structures include sheds, detached garages, driveways, and swimming pools and their associated decking. In addition, it is also common to find a residential lot containing extensive patios and low-level decks, children’s play equipment, and sports courts. These accessory uses are typically found in the rear yard and, cumulatively, they can easily cover more than 30% of the minimum required rear yard area. Many of these types of structures do not require building permits, and homeowners are not always aware of the 30% coverage limitation.



Sect. 10-103 of the Zoning Ordinance contains the use limitations for all accessory uses and structures. Currently, Par. 3 states that: “(a)ll uses and structures accessory to single family detached

dwelling, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the area of the minimum required rear yard.” Article 20 of Zoning Ordinance defines the minimum required yard as “that minimum distance which the principal building(s) shall be set back from the respective lot lines.” Furthermore, the rear yard is defined as “(a) yard extending across the full width of the lot and lying between the rear lot line of the lot and the principal building group.” As such, this use limitation applies only to the area of the rear yard extending across the full width of the lot located between the rear lot line and the minimum required building setback line. As referenced in this illustration, the 25-foot minimum required yard (which is the rear yard requirement on most conventional R-District lots) is the area where accessory uses and structures are counted towards coverage. The rear yard requirement is often referred to as the building setback line.

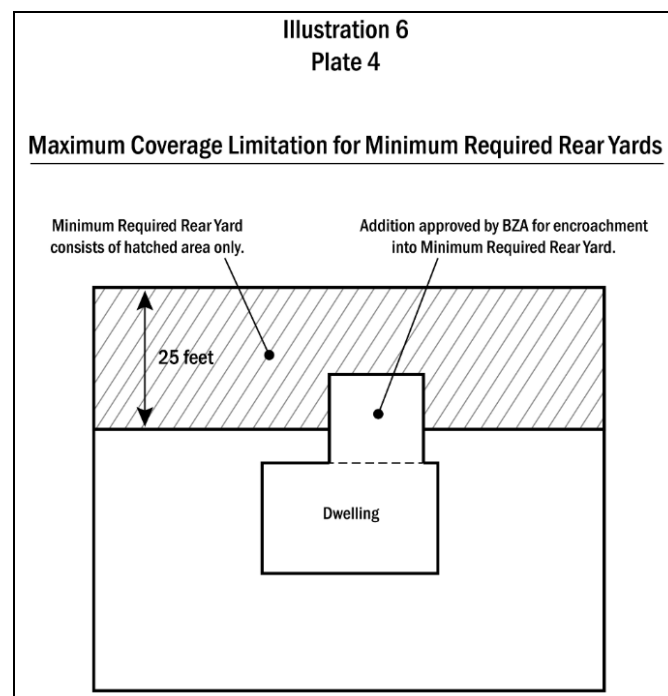


Currently, for family detached dwellings, accessory uses and structures located within the minimum required yard cannot cover more than 30% of this area, but they may cover any area in the rear yard that is not located within the minimum required rear yard, i.e., that area outside the minimum required yard and between the rear plane of the residence. The only way to seek relief from this provision is through a variance request in the R-Districts or a Final Development Plan Amendment in P-Districts.

There are three main areas of difficulty in applying Par. 3 of Sect. 10-103 of the Zoning Ordinance to individual lots. First, there are no specific, codified guidelines as to what constitutes rear yard coverage under Par. 3 of Sect. 10-103. Historically, the Zoning Administrator has dealt with these questions through interpretations. Clearly, footprints of accessory structures, paved or other solid surfaces, and permitted extensions such as eaves, decks, and uncovered stoops outlined in Sect. 2-412 of the Ordinance are specifically included in the current provisions. It has been less clear, however, as to what extent materials and delineations of certain uses, such as a larger mulched area containing children’s play equipment, should be considered in coverage calculations. Further the Zoning Administrator has determined that areas clearly delineated for an accessory use are counted towards the coverage calculation. Under longstanding Zoning Administrator interpretations, the entirety of the delineated area would be counted towards coverage calculations. Lastly, the Zoning Administrator has determined that permanently designated sports courts occurring on natural yard surfaces, such as grass or dirt, would also be included in coverage calculations if they were designed with associated structures, markers, or boundaries.

Second, the impact on rear yard coverage of a special permit or variance approval that reduces the minimum rear yard requirement for a lot is not well understood. When the BZA grants an approval to

allow a portion of a dwelling to extend into the rear yard, the overall setback used to determine the coverage area affected by Par. 3 of Sect. 10-103 does not change. The Zoning Administrator has determined that the calculation is still made on the *full minimum required rear yard* for the applicable zoning district, regardless of the reduced rear yard setback approved by the BZA for a particular addition. As a result, the portion of the dwelling approved to extend into the minimum required rear yard is automatically counted towards the 30% maximum coverage area. As illustrated in the above graphic, a special permit was granted for an addition to encroach into the 25-foot required minimum rear yard. Again, under current interpretation, the area of the residence encroaching into the rear yard would be counted towards rear yard coverage despite BZA approval. In such a case, the BZA approval allows encroachment of the structure into the *existing* minimum required rear yard; it does not establish a new minimum required rear yard. The proposed amendment would codify this interpretation.



Third, there are inconsistencies in the relief mechanism for the 30% maximum coverage provisions available to residential properties, depending on whether they are located in a P-District or R-District. Properties developed with single-family detached dwellings in P-Districts may seek permission to exceed the coverage limitation through approval of a Final Development Plan Amendment (FDPA) by the Planning Commission or a Proffered Condition Amendment (PCA) by the Board of Supervisors (Board). However, for residential property owners located in conventional residential zoning districts, the only relief available is BZA approval of a variance, which requires much higher standards for approval than an FDPA or PCA. As prescribed by Sect. 15.2-2309 of the Virginia Code, Sect. 18-404 of the Zoning Ordinance states that the BZA, among other criteria, can approve a variance only when strict application of the Zoning Ordinance “*would unreasonably restrict the utilization of the subject property, or the granting of the variance would alleviate a hardship due to a physical condition relating to the subject property or improvements thereon at the time of the effective date of the Ordinance.*” Thus, a variance cannot be granted for a structure or use

on a property, if such is not necessary for the reasonable use of the lot as a whole. In the case of most accessory structures, such as a shed or a swimming pool, this is a difficult standard to meet

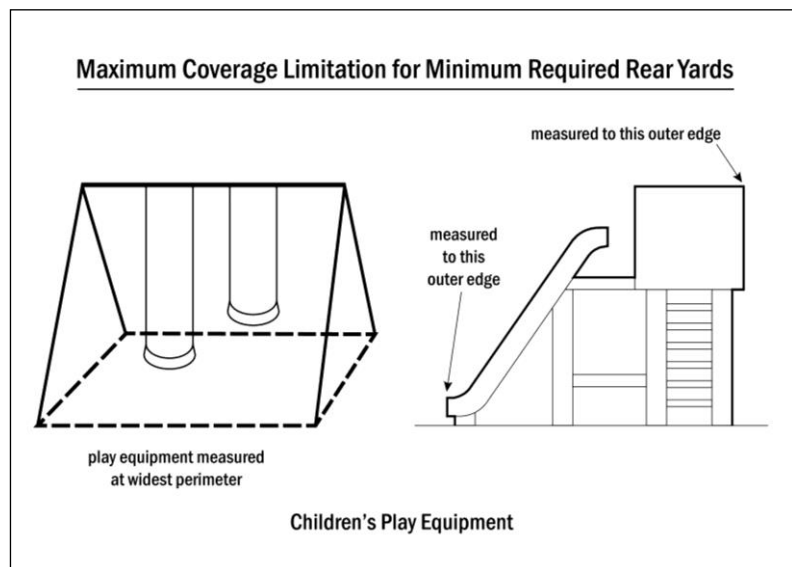
Proposed Amendment

First, the amendment clarifies accessory uses or structures included in the percentage of rear yard coverage. The next step of the amendment will determine what percentage of required minimum rear yard coverage will be regulated. Staff recommends regulating rear yard coverage in two different ways depending on whether the residential lot is located in an R-District or within a P-District. In the conventional R-Districts, staff has advertised a range of the by-right coverage from 30% to 50%. In addition, the amendment proposes a special permit application that will allow R-District homeowners to increase rear yard coverage up to 60%, but only with approval of a special permit from the BZA. In the P-Districts, the amendment proposes to increase the by-right coverage permitted within the minimum required rear yard up to 60%. In addition, staff proposes to exempt P-District lots under 5,000 square feet from this provision.

Clarification on how Coverage is Determined

In order to change, codify, and clarify the interpretations discussed in the Background section of this report, this amendment would clarify how rear yard coverage is determined. As previously discussed, Par. 3 of Sect. 10-103 simply states *“All uses and structures accessory to single family detached dwellings, to include those extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the minimum required rear yard.”* Included in the proposed amendment are detailed descriptions of the structures that are counted towards coverage and how they are to be measured. For example, under the proposed amendment, detached accessory structures would be measured at the perimeter area of the outermost horizontal extensions of the equipment, structure, or surface. Along with text clarification, the amendment includes four new graphics to increase understanding for staff and applicants. These graphics will be added to Appendix 2 – Illustrations, of the Zoning Ordinance.

In addition, the amendment proposes to clarify which permitted extensions allowed pursuant to Sect. 2-412 of the Zoning Ordinance are to be included in the maximum rear yard coverage. Staff believes that extensions from the dwelling that touch the ground, such as patios, ground level decks, and chimneys, should be included in the calculation of minimum required rear yard coverage. However, staff does not believe that elevated



structures, such as eaves, bay windows, and raised decks should be included in the rear yard coverage calculation. As proposed, projections from the principal dwelling that touch the ground are counted towards coverage but those that do not are specifically excluded from the coverage calculations.

In addition, as previously discussed, the area around children's play equipment included in the rear yard coverage calculation has been interpreted to include the entirety of the play area if there is a delineated space, such as a mulched area enclosed by railroad ties. The amendment differs from this interpretation such that this area would not be counted towards the required minimum rear yard coverage, as the soft-landing material is pervious and will not have stormwater runoff impacts. Therefore, as proposed, the perimeter around the outermost horizontal boundaries of the play equipment will be the only portion counted towards the required minimum rear yard coverage calculation.

R-Districts

In conventional R-Districts, staff has advertised a range of percentages for the Board to consider. The range allows the percentage of minimum yard coverage to remain at the current 30% coverage limitation or to increase up to a maximum of 50% coverage permitted by-right. In addition, staff has included a special permit option to allow individual homeowners to seek increases beyond the 30% limitation. However, anything beyond 60% of coverage would require approval of a variance by the BZA, as is the current practice. Staff believes that 60% is an appropriate maximum coverage to be requested in the conventional zoning districts, as it would allow for additional accessory uses and structures on a case-by-case basis. With BZA approval and the imposition of development conditions to mitigate any potential impacts, this process allows for additional flexibility while also ensuring that adjacent property owners are protected from overly intense uses of rear yards. A new Section 8-926, entitled "Modification of the Minimum Required Rear Yard Limitation," would be added to include additional standards applied by the BZA.

Staff recommends that the Board maintain the 30% rear yard coverage limitation and allow individual homeowners to apply for a special permit if they seek an increase beyond 30% coverage, as it allows for a public process to review each unique scenario, as well as provides the adjacent property owners with an opportunity for input. During the initial outreach process with the Board, staff originally had recommended increasing the permitted rear yard coverage to 40%, as this would allow a majority of the recent variance applications to avoid going through the variance and public hearing process. However, during these outreach efforts, the Board as well as some community groups raised concerns regarding the stormwater impacts of increasing by-right coverage in conventional R-Districts.

In response to these concerns, staff reached out to Stormwater Planning and Wastewater Management, who conducted a review of potential impacts of this increase. Following their analysis, they recommended that the by-right coverage *not* be increased in the conventional R-Districts. With the stormwater analysis showing that allowing up to 50% rear yard coverage by right in conventional R-District lots would contribute to additional drainage complaints and property damage, staff believes the by-right rear yard coverage should remain at 30% for R-Districts. However, stormwater staff would support increasing the allowable minimum required rear yard coverage in P-Districts,

along with the exemption of P-District lots smaller than 5,000 square feet. In addition, stormwater staff supported the special permit process, as this would allow site-specific stormwater solutions to be recommended and implemented, along with development conditions requiring on-site stormwater detention. Creating a special permit to request an increase in the R-Districts would allow an increase in rear yard coverage on a case-by-case basis with review and mitigating development conditions from the BZA.

Urban Forest Management staff also shared concerns regarding the potential impacts of an increase in by-right rear yard coverage in conventional districts both during and after the conclusion of the development process. Most tree preservation areas are in the rear portion of lots. Increasing the ability to encroach into the required minimum rear yard could substantially reduce the amount of preserved canopy coverage for individual lots and subdivisions. Specifically, there is the potential for an increase in requests to deviate from the tree preservation target set out in the Tree Conservation Ordinance, with the submission of site plans or infill lot grading plans. In discussions with Urban Forestry staff, a special permit application would permit the imposition of development conditions requiring sufficient screening and tree preservation on-site.

P-Districts

The amendment proposes to increase the by-right rear yard coverage limitation from 30% to 50% in P-Districts; however, a range of up to 60% is advertised to provide the Board with additional flexibility. Single-family detached dwellings within P-Districts are frequently located on smaller lots than those within conventional districts, and those lots typically have significantly smaller minimum required rear yards. In certain instances, the required minimum rear yard area is so small that no accessory structures or hard surfaces may be constructed without exceeding the 30% limitation. Therefore, staff recommends that P-District lots below 5,000 square feet be exempt from the minimum required rear yard coverage limitation. This design flexibility is justified in conjunction with the open space and amenities located within common spaces throughout a P-District development, as part of the approved rezoning. Staff finds that limiting these small P-District lots to 30% of rear yard coverage is overly restrictive and leaves little practical use of the required minimum rear yard area.

As part of this amendment, staff was asked to research alternative exemptions for the P-District lots other than ones based on individual lot size. One option considered was to exempt a subdivision if the average lot size was under 5,000 square feet in size. Staff reviewed P-District rezoning cases from 1978 to 2016 and found that of the cases researched, over half of the Final Development Plans did not include any metrics related to average lot sizes, and most of these were approved prior to 2002. With these applications, to determine the average lot size, the homeowner or County staff would have to calculate average lot size for the entire subdivision, which can be complicated if dedication of land area or boundary line adjustments have been made over time. Such a process is extremely time consuming and confusing for the average homeowner. In addition, while researching subdivisions that are zoned PDH with an average lot size of 5,000 square feet, the minimum lot size fell extremely far below the 5,000-square-foot lot size exemption, while the maximum lot size was well above the 5,000-square-foot exemption. For example, in the Briarwood Terrace subdivision, the smallest lot within the development was 3,443 square feet in size; the largest lot was 7,567 square

feet in size. Staff is concerned about the potential impacts of lots as large as 7,567 square feet being exempt from the limitation based on the average square-footage of the entire subdivision.

Staff also reviewed the option of averaging the lot sizes with the adjacent lots to exempt the subject property if the average surrounding lot size was below 5,000 square feet. As with the subdivision average lot size approach, this also would require the homeowner or County staff to calculate average lot size for the properties and would entail the same complications. Given this research, staff finds the 5,000-square-foot exemption for an individual lot to be the most appropriate measure.

Staff also assessed the feasibility of providing an “administrative approval” option where a property owner could request approval for lots that exceed the 5,000-square-foot exemption by no more than 10% (or up to 5,500 square feet). During the Board’s authorization hearing, it requested that staff advertise this option for the Planning Commission and Board to consider.

While staff is proposing an increase in the by-right maximum coverage up to 50% or 60% in the P-Districts, it is noted that any coverage calculations exceeding the approved amount could continue to be addressed through a Final Development Plan Amendment.

Editorial Amendment

In addition to the proposed language addressing minimum required rear yard coverage limitations, an additional editorial item is proposed in Par. 5 of Sect. 10-102 regarding children’s playhouses. Staff proposes removing the limitation of 100 square feet of gross floor area for children’s playhouses. Many other enclosed accessory structures, such as doghouses and gazebos, are permitted as accessory uses without such size limitations. Staff does not consider this limitation to serve a purpose, as such structures would be subject to all other considerations for accessory structures including remaining subordinate to the principal dwelling, meeting the location regulations, and meeting the minimum required rear yard coverage limitations.

Special Permit Fee and Submission Requirements

Staff recommends a \$910 filing fee for this new special permit application. This is equal to the established filing fee for requesting reductions in minimum required yards as permitted by Par. 1 of Sect. 8-922 and to the fee charged for a variance application. In addition, staff proposes similar submission requirements for this special permit as the ones established for the reduction in minimum required yards.

Additionally, the amendment would modify the submission requirements for special permits requesting a reduction in yards under Sect. 8-914 and Sect. 8-922, to require applicants to include a calculation of the minimum required rear yard coverage. Because problems with existing lot coverage are frequently discovered when applicants request other zoning approvals, this would ensure that staff is provided with a calculation of coverage so that it may identify issues up front. Staff could then direct applicants to resolve issues through simultaneous special permit requests. Staff notes that when multiple special permit types are requested concurrently, only the highest filing fee applies.

Conclusion

The proposed Zoning Ordinance amendment would give owners of single-family detached residential property additional options to seek relief for accessory uses and structures placed within the minimum required rear yard. While the proposed amendment provides for the Board to consider an increase in the by-right required minimum rear yard coverage from 30% up to 50% in R-Districts, due to stormwater concerns staff has recommended that the coverage remain at 30% in the R-Districts. Staff also recommends that the Board create a new special permit option that will allow homeowners to request relief for increased rear yard coverage through a special permit application rather than through a variance. With a special permit application process, the BZA would review such requests to increase coverage on a case-by-case basis and would be able to impose development conditions to mitigate potential impacts. In P-Districts, for lots greater than 5,000 square feet, the by-right coverage percentage would be increased from 30% rear yard coverage to as much as 60%. Lots below 5,000 square feet would be exempt from these coverage limitations. This amendment would also further clarify what is included in the minimum required rear yard coverage calculations. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of March 20, 2018, and there may be other proposed amendments that could affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment. If any such other amendment is adopted before this amendment, any necessary renumbering or editorial revisions will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

1 **Amend Article 8, Special Permits, Part 9, Group 9 Uses Requiring Special Regulation, as**
2 **follows:**

3
4 - **Amend Sect. 8-901, Group 9 Special Permit Uses, by adding a new Par. 25 to read as**
5 **follows:**

6
7 25. Increase in the percentage of minimum required rear yard coverage for single family
8 detached dwellings.

9
10 - **Amend Sect. 8-914, Provisions for Approval of Reduction to the Minimum Yard**
11 **Requirements based on Error in Building Location, by adding a new Par. 1L to read as**
12 **follows:**

13
14 1. Notwithstanding Par. 2 of Sect. 011 above, all applications ~~shall~~ must be
15 accompanied by ten (10) copies of a plat and such plat ~~shall~~ must be presented on a
16 sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat.
17 Such plat ~~shall~~ must be drawn to a designated scale of not less than one inch equals
18 fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development.
19 Such plat ~~shall~~ must be certified by a professional engineer, land surveyor, architect, or
20 landscape architect licensed by the State of Virginia and such plat ~~shall~~ must contain
21 the following information:

22
23 L. A calculation showing the percentage of the minimum required rear yard that is
24 covered with any accessory use and structure, in accordance with Par. 3 of Sect.
25 10-103.

26
27 - **Amend Sect. 8-922, Provisions for Reduction of Certain Yard Requirements, by adding a**
28 **new Par. 11N to read as follows:**

29
30 11. Notwithstanding Par. 2 of Sect. 011 above, all applications ~~shall~~ must be
31 accompanied by fifteen (15) copies of a plat and such plat ~~shall~~ must be presented on a
32 sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat.
33 Such plat ~~shall~~ must be drawn to a designated scale of not less than one inch equals
34 fifty feet (1" = 50'), unless a smaller scale is required to accommodate the
35 development. Such plat ~~shall~~ must be certified by a professional engineer, land

1 surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat
 2 ~~shall~~ must contain the following information:

3
 4 N. A calculation showing the percentage of the minimum required rear yard
 5 that is covered with any accessory use and structure, in accordance with
 6 Par. 3 of Sect. 10-103.
 7

8 - **Add new Sect. 8-926, to read as follows:**
 9

10 **8-926 Provisions for Increase in the Percentage of Minimum Required Rear Yard**
 11 **Coverage**
 12

13 The BZA may approve a special permit to allow an increase in the percentage of coverage of
 14 the minimum required rear yard on a lot developed with a single family detached dwelling,
 15 subject to the following:
 16

- 17 1. This approval will allow no more than 60 percent of the minimum required rear yard to
 18 be covered by any accessory structure and use.
 19
- 20 2. All accessory structures and uses located on the property must be clearly subordinate in
 21 purpose, scale, use, and intent to the principal dwelling.
 22
- 23 3. The BZA determines that the existing or proposed accessory structures and uses on the
 24 property are harmonious with the surrounding off-site uses and structures in terms of
 25 the location, height, bulk, and scale of the surrounding structures, topography,
 26 existing vegetation, and the preservation of trees.
 27
- 28 4. The BZA determines that the existing or proposed accessory structures and uses on the
 29 property will not adversely impact the use or enjoyment of any adjacent property.
 30
- 31 5. The BZA determines that the proposed increase in the minimum rear yard coverage is
 32 appropriate to accommodate the existing or proposed accessory structures and uses on
 33 the lot. Specific factors to be considered include, but are not limited to, the location of
 34 the dwelling on the lot; the shape of the lot and its yards; the layout of existing or
 35 proposed accessory structures and uses; the availability of alternate locations for the
 36 existing or proposed accessory structures and uses outside of the minimum required
 37 rear yard; the characteristics of the site, including the presence of steep slopes,
 38 floodplains, or Resource Protection Areas; the preservation of existing vegetation and
 39 significant trees; the location of a well and/or septic field; the location of easements;
 40 and the preservation of historic resources.
 41
- 42 6. The BZA may impose such conditions as it deems necessary to satisfy these criteria,
 43 including, but not limited to, limitations on the maximum sizes or specific locations of
 44 existing or proposed accessory structures and uses, and landscaping or screening
 45 requirements.
 46
- 47 7. Notwithstanding Par. 2 of Sect. 011 above, all applications must be accompanied by
 48 fifteen (15) copies of a plat, and such plat must be presented on a sheet having a

1 maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat must
2 be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'),
3 unless a smaller scale is required to accommodate the development. Such plat must be
4 certified by a professional engineer, land surveyor, architect, or landscape architect
5 licensed by the State of Virginia. Such plat must contain the following information:
6

7 A. Boundaries of the entire property, with bearings and distances of the perimeter
8 property lines, and of each zoning district.
9

10 B. Total area of the property and of each zoning district in square feet or acres.
11

12 C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the
13 plat and on all supporting graphics.
14

15 D. The location, dimension and height of the principal dwelling, including any
16 extension; and the location, dimension and height of any existing or proposed
17 accessory structure or use. For decks, the height of the finished floor above
18 finished ground level, and for eaves, the height of the eave from finished ground
19 level.
20

21 E. All required minimum yards to include front, side and rear; a graphic depiction of
22 the angle of bulk plane, if applicable; and the distance from each existing or
23 proposed structure to lot lines.
24

25 F. A calculation showing the percentage of the minimum required rear yard that is
26 covered with existing and/or proposed accessory uses and structures, in
27 accordance with Par. 3 of Sect. 10-103.
28

29 G. Means of ingress and egress to the property from a public street(s).
30

31 H. If applicable, the location of a well and/or septic field.
32

33 I. Location of any existing utility easement having a width of twenty-five (25) feet
34 or more, and all major underground utility easements regardless of width.
35

36 J. The location, type and height of any existing and proposed landscaping and
37 screening.
38

39 K. Approximate delineation of any floodplain designated by the Federal Emergency
40 Management Agency, United States Geological Survey, or Fairfax County; the
41 delineation of any Resource Protection Area or Resource Management Area; the
42 approximate delineation of any environmental quality corridor as defined in the
43 adopted comprehensive plan; and, if applicable, the distance of any existing or
44 proposed structure from the floodplain, Resource Protection Area and Resource
45 Management Area, or environmental quality corridor.
46

47 L. Seal and signature of professional person certifying the plat.
48

1 **Amend Article 10, Accessory Uses, Accessory Service Uses, and Home Occupations, Part 1,**
 2 **Accessory Uses and Structures as follows:**

3
 4 **- Amend the introductory paragraph and Par. 5 of Sect. 10-102, Permitted Accessory Uses, as**
 5 **follows:**

6
 7 Accessory uses and structures ~~shall~~ may include, but are not limited to, the following uses and
 8 structures; ~~that~~ any such use or structure ~~shall~~ must be in accordance with the definition of
 9 Accessory Use contained in Article 20.

10
 11 5. Child's playhouse, ~~not to exceed 100 square feet in gross floor area,~~ and play equipment.

12
 13 **- Amend Par. 3 of Sect. 10-103, Use Limitations, as follows:**

14
 15 3. ~~All uses and structures accessory to single family detached dwellings, to include those~~
 16 ~~extensions permitted by Sect. 2-412, shall cover no more than thirty (30) percent of the~~
 17 ~~minimum required rear yard. The following limitations on coverage of the minimum~~
 18 ~~required rear yard apply to any lot developed with a single family detached dwelling:~~

19
 20 A. All accessory structures and uses may cumulatively cover no more than:

21
 22 (1) 30 percent [*Advertised range is from 30 to 50 percent; however, staff has*
 23 *recommended that coverage remain at 30 percent*] of the minimum required rear
 24 yard on any lot located in an R-District; or

25
 26 (2) 50 percent [*Advertised range is from 30 to 60 percent*] of the minimum required
 27 rear yard on any lot located in a P-District and containing more than 5000 square
 28 feet of land area, unless otherwise specified on an approved development plan or in
 29 a proffered or development condition. There is no coverage limit for a lot located in
 30 a P-District and containing no more than 5000 square feet of land area. [*Advertised*
 31 *to allow an administrative exemption from the rear yard coverage restriction for*
 32 *any such P-District lot that measures up to 10% larger than 5,000 square feet.*]

33
 34 B. The minimum required rear yard coverage includes the following:

35
 36 (1) Any fully or partially roofed freestanding accessory structure, such as a garage,
 37 shed, gazebo, and other similar structure, including any horizontal projection.
 38 (Reference Plate 1 of Illustration 6 in Appendix 2);

39
 40 (2) Any other freestanding accessory structure, including any children's play
 41 equipment, sports court, pool and associated decking, and any other similar
 42 structure measured around the perimeter of the outermost horizontal extensions of
 43 the equipment, structure, or surface (Reference Plate 2 of Illustration 6 in
 44 Appendix 2);

45
 46 (3) Any horizontal projection from the principal dwelling that touches the ground, such
 47 as a chimney, stair, stoop, HVAC equipment, patio, deck and other similar
 48 projection. However, any horizontal projection from the principal dwelling which

1 does not touch the ground (other than the support posts for a deck), including an
 2 eave, bay window, open deck, or other similar projection is not included in the
 3 minimum required rear yard coverage (Reference Plate 3 of Illustration 6 in
 4 Appendix 2);

5
 6 (4) Any driveway, parking space, walkway and sidewalk greater than 5 feet in width,
 7 regardless of the surface or edging material used.

8
 9 C. Any portion of the principal dwelling that receives approval to encroach into the
 10 minimum required rear yard is not included in the minimum required rear yard
 11 calculation (Reference Plate 4 of Illustration 6 in Appendix 2).

12
 13 D. For the purposes of this provision, for any single family detached lot in a P-District that
 14 is not subject to a proffered condition establishing minimum rear yards, the required
 15 minimum rear yard will be governed by the regulations of that conventional residential
 16 zoning district which most closely characterizes the given development.

17
 18 E. An increase in the percentage of minimum rear yard coverage may be permitted in
 19 accordance with the provisions of Part 9 of Article 8 for lots located in an R-District or
 20 with approval of an amendment to the development plan for lots located in a P-District.

21 **Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1,**
 22 **Administration, to read as follows:**

23
 24 - **Revise Sect. 106, Applications and Zoning Compliance Letter Fees:**

25
 26 - **Amend Par. 1, Group 9 Special Permit entries, as follows:**

27
 28 1. Application for a variance, appeal, special permit or special exception:

29 Application for a:

30 Group 9 special permit

31	Open air produce stand	\$1810
32	Accessory dwelling unit; modification to the limitations on	\$435
33	the keeping of animals	
34	Increase in fence and/or wall height in any front yard on a	\$435
35	single family dwelling lot	
36	Increase in fence and/or wall height in any front yard on all	\$2500
37	other uses	
38	Modification to minimum yard requirements for R-C lots	\$185
39	Error in building location; reduction of certain yard	\$910
40	requirements on a single family dwelling lot; modification of	
41	minimum yard requirements for certain existing structures	
42	and uses; certain additions to an existing single family	

1	detached dwelling when the existing dwelling extends into a	
2	minimum required yard by more than fifty (50) percent	
3	and/or is closer than five (5) feet to a lot line; noise barriers	
4	on a single residential lot; modification of grade for single	
5	family detached dwellings; <u>increase in the percentage of minimum</u>	
6	<u>required rear yard coverage for single family detached dwellings</u>	
7	Reduction of certain yard requirements on all other uses	\$8180
8	All other uses	\$16375

10 - **Amend Par. 2, Application for an amendment to the Zoning Map entries, as follows:**

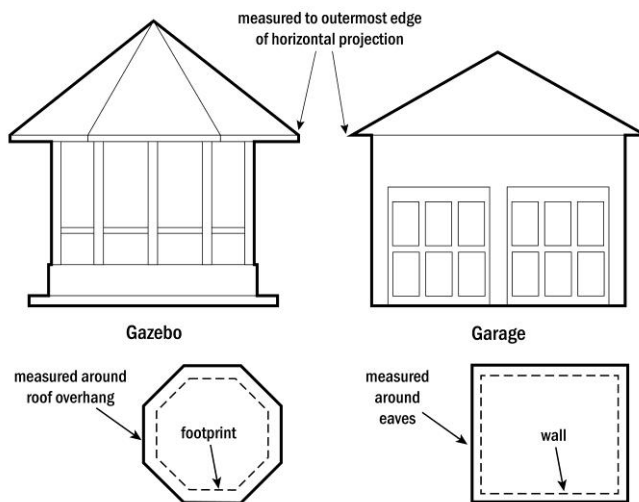
- 12 • Amendments to a previously approved proffered condition
- 13 and/or development plan, final development plan, conceptual
- 14 development plan, PRC plan or concurrent conceptual/final
- 15 development plan for:
- 16
 - 17 ○ Increase in fence and/or wall height on a single family lot \$435
 - 18 ○ A reduction of certain yard requirements on a single family lot; or \$910
 - 19 ○ Increase in coverage limitation for minimum required rear yards \$910
 - 20 ○ Increase in fence and/or wall height on all other uses; or \$2500
 - 21 ○ A reduction of certain yard requirements on all other uses; or \$8180
 - 22 ○ The addition of or modification to an independent living facility \$1100
 - 23 for low income tenants.

24

25 **Amend Appendix 2, Illustrations, to add the following Illustration 6, Plates 1-4, as follows:**

Illustration 6
Plate 1

Coverage Limitation for Minimum Required Rear Yards

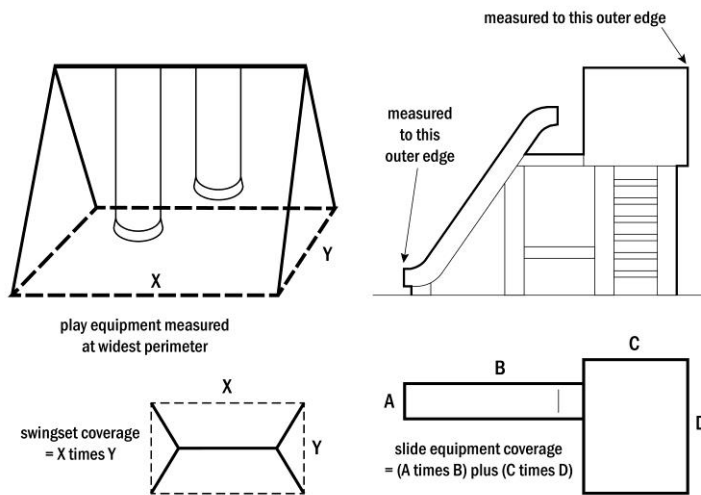


Freestanding Accessory Structures

1

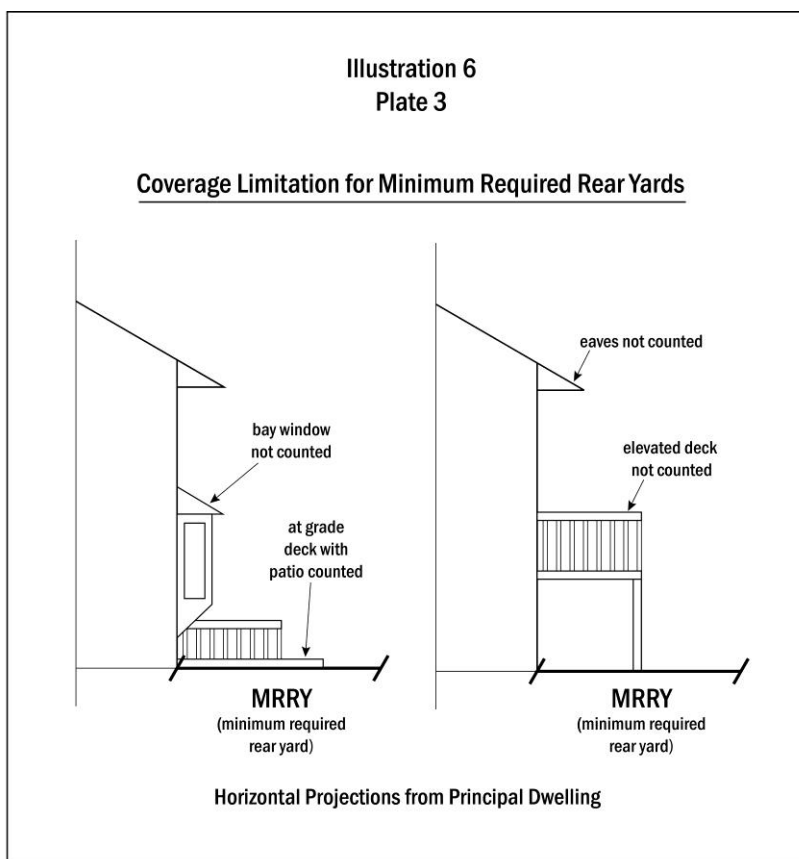
Illustration 6
Plate 2

Coverage Limitation for Minimum Required Rear Yards

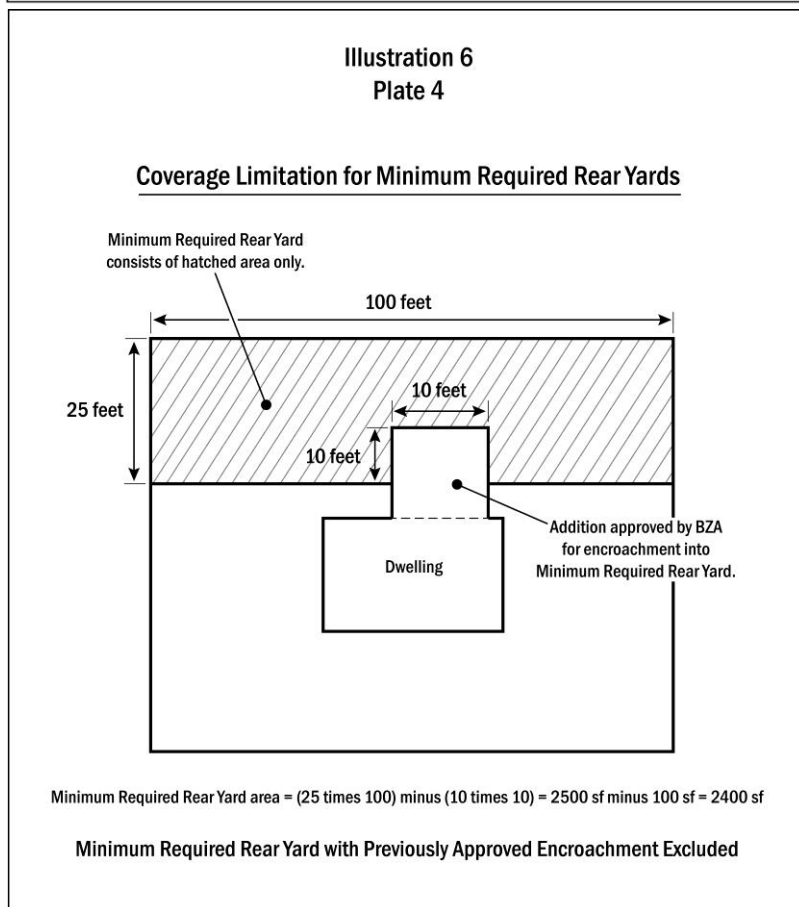


Children's Play Equipment

2



1



2