

POSSIBLE ORDINANCE CHANGES

Accessory structures – 170-1603.C

Size – there are no regulations on the size of an accessory structure in the Ordinance. A few years ago a property owner built an accessory structure with a footprint as large or larger than the existing dwelling. There was considerable neighborhood objection resulting in a court case.

PC at the time suggested considering adding some ordinance language which could be used to limit the size (and possible the placement) of such structures, at least in residential districts..

Placement – currently the Ordinance requires that all accessory structures (over 250 square feet) conform to the same setbacks as the primary structure in most zoning districts.. (25 feet from side lines, 40 feet from rear lines in R1, 10 feet and 30 feet R2) The small, uninhabitable structures (under 250 square feet - sheds, gazebos, pool houses) can be placed within 15 feet of a property line in rear or side yards.

There are a large number of existing sheds which do not have permits and are located much closer to property lines. There have been numerous appeals to the Zoning Hearing Board to allow closer placement due to actual conditions on the lot. It has been suggested that the regulations be changed to allow placement closer to lot lines at least in the R2 district.

Placement of accessory structures in the [Flexible Development](#) projects (West Glen, Green Lane Village, and Arbor View) is a different issue. These projects have zero lot lines. The structures must be 30 from the curb line and separated by at least 30 feet. There are no other setback regulations. There are several other issues relating to [Flexible Development](#).

Accessory Dwellings – 170-1603.A

Currently accessory dwellings are permitted either connected to the primary dwelling, in combination with an existing accessory structure (garage), or in a separate structure. There are existing accessory dwellings in all three of these categories.

There have been objections to the “separate structure” accessory dwelling because of the possibility that a mobile home might be an accessory dwelling.

Currently the Ordinance requires that one of the two dwelling units on a residential lot be occupied by the owner. This was originally intended to prevent development of a “rental” community. It was challenged as preventing an owner from allowing two of his relatives from occupying the dwelling units.

Buffers and Screening – MU and R-3 Districts

Present regulations generally require buffers between districts rather than between uses.

Possibility for problems in MU and R-3 districts where residential and non-residential uses are permitted. The MU District is presently developed as residential except for one tract (5 acres?) currently industrial which could be redeveloped for any use permitted in the C1 District..

170-900 Flexible Development

170-904.C There are no lot size limits in Flex. For single family dwellings the only control of lot size is the requirement that there can be only 4 lots per acre in the area used for single family dwellings (smallest lots could be just under 11,000 square feet).

170-904.E.(3).(10) Setbacks - The only setback regulations for dwellings in Flex are 30 feet behind the curb line and 30 foot separation between structures. This applies to decks, sheds, and even dwellings. (Not to swimming pools, however.)

When a property owner applies for a building permit such as for a deck or garden shed, the only control on placement is the 30 foot separation. This is a problem because (1) it requires locating structures on the adjacent property, and (2) in many cases a garden shed cannot be located 30 feet from the dwelling because the lots are so small.

Impervious cover – There are no regulations on impervious cover on individual lots. A home owner could build a pool, patio, and deck which resulted in 50% or more impervious cover. Maximum impervious cover in other residential districts is 20 to 25%. The PC concluded some years ago that unless the Township Engineer determines that the revised Storm Water Management and building permit regulations adequately address this issue, there is a potential problem. (No bulding permit is required for a patio.)

Open Space Regulations

When the **Flexible Development** option was added to the Ordinance, it included an extensive **Open Space** description -170-907. It was decided to refer the **Open Space** requirements in all other districts to this section in order to avoid repetition.

While there are requirements for some portion of the **Open Space** be useable for active recreation, storm water management often occupies a significant area. Revising the **open space** definition and regulations has been suggested.

170-1502.B.

This section relates to decks in townhouse developments where the lot line conforms to the building footprint. It allows a deck to project into the common **open space** as long as it is no closer than 15 feet from another structure. Possible safety issue for access by emergency equipment.

170-1509 Storage

Residents frequently complain about storage of RV's, landscaping and construction equipment (even once an ultralight airplane) in residential neighborhoods. This is particularly a problem in areas where there are many Major Home Occupations as these tend to be contractors and landscapers. The wording of this section makes addressing these issues difficult as it appears aimed at non-residential situations.

170-1513.B Interior circulation and streets minimum widths.

PC has been asked to consider reducing the minimum paved width of streets on low traffic volume streets.

170-1605.G.(2).n Major home occupations.

Correct reference from 170-1700D to "170-1708.A.

170-602.D

Residential Cluster per 170-1602 which has been deleted (replaced by **Flexible Development**.) Remove 170-602.D and renumber as necessary.

Driveways

The Subdivision Ordinance includes specifications for the design and construction of driveways in new developments, but there is no requirement for a permit to alter or install new driveways. PC has suggested on several occasions that the Board adopt a free standing driveway ordinance.

TECHNICALLY OUTDATED OR OBSOLETE SECTIONS OF THE CODE:

1. §149-910 - "All materials used for the construction of streets and/or roads as herein defined and the method of construction and installation shall be in strict accordance with the requirements of PennDOT Specifications Publication 408 and/or PennDOT Seldom Used Specifications 1983 and/or the latest revision thereof."

MT Response: This section could be revised to remove the reference to "PennDOT Seldom Used Specifications 1983" and more appropriately Reference PennDOT Publication 46.

2. §149-910.D Paving – "Bituminous Surface Course ID-2A."

MT Response: This section could be revised to remove the reference to Bituminous Surface Course ID-2A. This section should be completely be re-written to include a modern specification of the Superior Asphalt Paving System (Superpave).

3. §149-803 Stormwater Management in the Land Development Ordinance
MT Response: This section could be completely removed since the Township Stormwater was installed as a “stand alone - §144” section in 2013.

ORDINANCE TYPOS

4. §144-301.T “Disturbance of existing ground cover during construction of the proposed regulated activity is prohibited within fifty (75)[4] feet of top-of-bank of all perennial and intermittent waterways, water bodies (lakes, ponds, etc.) and wetlands, except for activities otherwise approved by state or local agencies (e.g., stream restoration projects, road crossings, subsurface utility projects, etc.). At the Municipal Engineer’s discretion, and with Conservation District and PADEP approval where necessary, the non-disturbance, buffer may be reduced because of setback or other site constraints, but never be less than 10 feet.

[4]Editor’s Note: So in original.”

MT Response: A typo appears in the code. The ordinance should correctly read “seventy-five” (75), not fifty, which was the original language from the Chester County Model ordinance.

FREQUENT WAIVERS AND ZONING REQUESTS

5. Administrative Preliminary / Final Waiver. *The entire concept of a preliminary submission has its roots in the 1960 / 70’s when engineers and surveyors would submit a preliminary plan with little or no final engineering and received vested rights in the lot-geometry or number or units for an application. Modern applications contain so much information that that boundary between preliminary and final has become almost negligible far as engineering detail. Very infrequently have I seen a request for the waiver from preliminary to prelim/ final denied.*

6. Landscaping

The Township has seen multiple applications with requests for waivers from Landscaping including:

Westtown Woods: §149-925-1.5 – Street Trees within 5 feet of property and within 10 feet of side lot lines

§149-924.D which would require a separate tree protection plan.

Fairshire Builders: §149-924.D(12)(b) – Regarding the request to waive the full amount of compensatory trees, the site was formerly a tree nursery.

Rustin Residential: §149-925-1.5 – Street Trees within 10 feet of side lot lines.

Considering that these applications are handled on a case by case basis, I see no reason to make changes to the code.

7. Lighting

§170-603, §170-703, §170-803, §170-905: Technically lighting is required in Residential applications in R-1, R-2, R-3, Flex Dev., by “Design Standards” §170-603, §170-703, §170-803, §170-905 by §170-1514 “Outdoor Lighting.”

The Township has not required outdoor lighting on the following residential land developments:

Hawthorne: 1019 Shiloh Road – Six Lots, Greenstone, Arborview: Hidden Pond Way – 35 Lots, Westtown Woods: Piper Lane – 15 Lots, Rustin Residential: Leeds Circle 50 Lots

Smaller Applications: March Creek Homes – Garden Circle, Springer – 102 Oakbourne Road

I'd recommend that the lighting requirements in Residential be official removed from the code.

8. Stormwater

§144-311.B.2 HDPE Pipes to be used in areas not supporting traffic loads. This request has been made on several applications and been granted by the BOS frequently enough to warrant amending the code.

NEW ADDITIONS

§170-1600 – Consider adding Drive Thru Regulations (Recall Dunkin’ Donuts)

§170-1600 – Consider adding MS4 Assist Regulations (Recall the Maneri Property 1126 Kolbe Lane, Rustin and Crebilly CU)

§149-1514 – Consider adding a Belgian Block Section of Code with detail.

§170-1600 – Parking has become popular for compact cars, oversized vehicle, seniors citizen and new or expecting parents.

§170-1600 – Truck Turning Templates are not require by ordinance and should be added to the preliminary/ final plan set requires. All vehicles for emergency response, delivery and trash and recycling should be provided to major applications.

DEFINITIONS ZONING

The definition of “Lot Area” and “Tract Area” are treated differently in Zoning: “Lot Area” - §170-200

The acreage contained within the property lines of a lot, as defined in the deed or as shown on an approved subdivision plan. For purposes of compliance with minimum lot area requirements, the following shall be excluded:

[Amended 3-3-2003 by Ord. No. 2003-2]

A. Any area used for gas, oil, natural gas, electric, water, or communications transmission facilities, whether below or above ground, that do not serve the lot or lots traversed.

B. Any area within a street or other transportation right-of-way, existing or proposed.

C. Any area within a permanent drainage easement.

“Tract” - §170-1519

(1) Tract area shall be determined by excluding from the gross area of the tract any or all of the following, as applicable:

(a) Any area used for gas, oil, natural gas, electric, or communications transmission facilities, railroad fee-simple interest, right-of-way or easement whether below or above ground, that do not serve the tract.

(b) Any area within an existing street right-of-way.

(c) An area measured in acres equal to 75% of the total area comprising any of the following:

[1] Any area overlain by the Floodplain District;

[2] Any area where the slope gradient is 25% or greater;

[3] Any area designated as a wetland.

(d) An area measured in acres equal to 25% of the total area comprising any area containing seasonally high water table soils.

(2) In the event two or more of the above-named features overlap, the overlapped area with the most severe reduction shall be counted, and the overlapped areas shall be counted only once.

LOT AREA

The acreage contained within the property lines of a lot, as defined in the deed or as shown on an approved subdivision plan. Such acreage shall be exclusive of the following:

A. Any area used for gas, oil, natural gas, electric, or communications transmission facilities, whether below or above ground, that do not serve the lot or lots traversed.

B. Any area within a street or other transportation right-of-way, existing or proposed.

C. Any area within a permanent drainage easement.

D. Every lot created by subdivision shall have a contiguous and uninterrupted area equal to 75% of the minimum lot area required by the applicable zoning district which is unencumbered by wetlands, one-hundred-year floodplains, steep slopes and/or stormwater management basins/facilities.