

ORDINANCE 2022-09

**WESTTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE AMENDING CHAPTER 170, ZONING, OF THE CODE OF WESTTOWN TOWNSHIP REGARDING THE SETBACK STANDARDS FOR ACCESSORY STRUCTURES AND PERMITTED ENCROACHMENTS INTO REQUIRED YARD AREAS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township, Chester County, Pennsylvania, that certain provisions of Chapter 170, Zoning, of the Code of Westtown Township, as amended, be amended as follows:

SECTION 1. Chapter 170, Zoning, Article II, Definitions, §170-201, Definitions, shall be amended to read as follows:

STRUCTURE

Any form or arrangement of building materials involving the necessity of providing proper support, bracing, anchorage or other protection. Such arrangement shall have a permanently fixed location in or on the ground. Structures include but are not limited to primary and accessory buildings, open sheds and similar enclosures with less than four walls and/or a roof, signs, fences or walls over six feet in height, detached aerials and antennae, decks, porches, platforms, recreational courts, swimming pools, tents, tanks, and towers. For floodplain management purposes, a structure is defined as a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SECTION 2. Chapter 170, Zoning, Article VIII, R-3 Residence-Office District, §170-802, Area and bulk regulations, Subsection E(5), Twin Dwellings, shall be amended to read as follows:

- (5) Minimum building setback line from the right-of-way of a minor street: 25 feet.

SECTION 3. Chapter 170, Zoning, Article VIII, R-3 Residence-Office District, §170-802, Area and bulk regulations, Subsection F(5), Single-family detached dwelling, shall be amended to read as follows:

- (5) Minimum building setback line from the right-of-way of a minor street: 25 feet.

SECTION 4. Chapter 170, Zoning, Article XV, General Regulations, §170-1502, Projections into setbacks and setback exceptions, Subsection A shall be amended to read as follows:

- A. Permitted encroachments. The following components of principal residential buildings (with or without accessory dwelling units), may project into required yard setbacks in accordance with the following:

- (1) Buttresses, chimneys, cornices, piers or pilasters, unenclosed fire escapes, and unroofed steps shall be permitted to encroach into required yard setbacks so long as they are set back at least 15 feet from any lot lines.
- (2) Covered or uncovered porches, stoops, porticos, and other landings may encroach into front yard setbacks up to 10 feet in the A/C and R/1 Districts and up to 8 feet in the R-2 and R-3 Districts. These architectural features shall be permitted to encroach in any other zoning district only if the existing front yard setback is at least 40 feet, in which case front yard encroachments shall be permitted up to 8 feet.
 - (a) Covered porches and other landings in the front yard must be open on at least two sides. If more than two sides are enclosed, then it shall be considered part of the primary structure and shall conform to all required building setbacks applicable to the zoning district in which the property is located. Railings for fall protection shall not be considered part of an enclosure provided they are not made of solid walls, panels, or other opaque materials. Mesh screens shall be considered part of an enclosure.
 - (b) Covered porches and other landings located in side and rear yards shall be considered part of the primary structure and shall conform to all required building setbacks applicable to the zoning district in which the property is located, regardless of whether or not any sides are enclosed.

SECTION 5. Chapter 170, Zoning, Article XV, General Regulations, §170-1502, Projections into setbacks and setback exceptions, Subsection B shall be amended to read as follows:

- B. For developments where the lot area of a property conforms to the footprint of the dwelling unit, any projections including decks and patios may project up to ten feet from the façade of the building and shall be set back at least 15 feet from the tract boundary.

SECTION 6. Chapter 170, Zoning, Article XV, General Regulations, §170-1502, Projections into setbacks and setback exceptions, Subsection C shall be amended to read as follows:

- C. Uncovered decks attached to a principal dwelling may extend into a required side or rear yard, provided they meet the following standards:
 1. Decks must be set back a minimum of 15 feet from side or rear lot lines. Deck stairs shall be considered part of the structure and shall conform to this setback requirement.
 2. In the event a principal dwelling unit has a side yard setback of less than 15 feet, the setback for deck and deck stairs shall be 10 feet from property lines,

or a distance equivalent to the side yard setback of the primary structure, whichever is less. This standard shall not apply along a shared lot line where two dwellings are attached to each other.

3. Covered decks located in side and rear yards shall be considered part of the primary structure and shall conform to all required building setbacks applicable to the zoning district in which the property is located.
4. Decks attached to a detached accessory structure, including an accessory dwelling unit, shall meet the same standards for decks attached to principal dwelling units.

SECTION 7. Chapter 170, Zoning, Article XV, General Regulations, §170-1502, Projections into setbacks and setback exceptions, Subsection F shall be amended to read as follows:

F. Detached accessory structures are permitted to encroach in side and rear yard setbacks as follows:

- (1) Structures less than 250 square feet and less than 12 feet in height shall be set back from side and rear lot lines a minimum of five feet.
- (2) Structures 250 square feet and larger and/or structures 12 feet or more in height shall be set back from side and rear lot lines a distance equivalent to the height of the structure.

SECTION 8. Chapter 170, Zoning, Article XV, General Regulations, §170-1502, Projections into setbacks and setback exceptions, Subsection G shall be amended to read as follows:

G. Swimming pools, measured from the edge of the water, tennis courts, and similar outdoor recreation facilities shall be permitted within side and rear yard areas provided they are set back at least 25 feet from the lot line.

- (1) Isolation distances from sewage disposal facilities. No pool, tennis court or other recreational facility shall be placed less than 10 feet from any septic field or tank.

SECTION 9. Chapter 170, Zoning, Article XV, General Regulations, §170-1502, Projections into setbacks and setback exceptions, Subsection I shall be added to read as follows:

I. Patios shall be permitted to encroach into front yard setbacks in accordance with the standards outlined in §170-1502.A(2) and subject to the following:

- (1) Patios shall be set back a minimum of 15 feet from side and rear lot lines.
- (2) In the event a principal dwelling unit has a side yard setback of less than 15 feet, the setback for patios shall be 10 feet from property lines, or a distance

equivalent to the side yard setback of the primary structure, whichever is less. This standard shall not apply along a shared lot line where two dwellings are attached to each other.

- (3) If steps are required to access the patio from a door in the house, all steps shall conform to building code standards and shall provide landings and handrails where required.
- (4) A permit shall be required for the installation of any patio.

SECTION 10. Chapter 170, Zoning, Article XVI, Supplemental Regulations, §170-1603, Accessory uses and structures, Subsection C shall be amended to read as follows:

C. Uses and structures accessory to residential use.

- (1) Private parking space.
- (2) Barn, private stable, or other shelter for animals (but not including a kennel), in accordance with the terms of §170-1516 of this chapter.
- (3) Detached accessory structure such as private garage, greenhouse, garden shed, or similar structure. Accessory structures may be located only in side and rear yards. Setback standards for detached accessory structures shall be in accordance with standards set forth in §170-1502.
 - (a) Size limits. The footprint of an accessory structure shall not exceed 50% of the footprint of the principal dwelling unit, or 1,000 square feet, whichever is less.
 - (b) Height limits. Accessory structures may not exceed the height of the principal dwelling or 20 feet, whichever is greater. Height shall be determined based on the definition of height per §170-202.
 - (c) Permits required. Building permits are required for all accessory structures that are 250 square feet or larger and/or propose the installation of utilities. Zoning permits are required for all accessory structures under 250 square feet. Any wheels attached to a mobile structure must be removed prior to the issuance of any permits.

SECTION 11. Chapter 170, Zoning, Article XVI, Supplemental Regulations, §170-1603 Accessory uses and structures, Subsection C(4) shall be added to read as follows.

- (4) Private recreational facilities including above- and in-ground swimming pools above 24 inches of water depth (permanent or temporary), spas/hot tubs, tennis courts, basketball courts, and other similar uses.

SECTION 12. Chapter 170, Zoning, Article XVI, Supplemental Regulations, §170-1603, Accessory uses and structures, renumber existing subsections C(4) through C(9) as C(5) through C(10).

SECTION 13. Chapter 170, Zoning, Article XVI Supplemental Regulations, §170-1611 Swimming Pools, shall be added to read as follows.

- A. Permanent or temporary in-ground and above-ground swimming pools with a water depth of 24 inches or more shall be permitted as an accessory use only in the rear yard or side yard.
- B. Pools shall be located at least 25 feet from any lot line, measured from the edge of the water.
- C. Pools shall be enclosed with a continuous pool-code compliant barrier. Permanent structures, such as the exterior wall of a building, may be considered a part of the enclosure.
 - (1) The provisions regulating fencing shall not apply to pools having sides extending four feet above grade, provided that the stairs, or other means of access to the pool, are removed or locked in such a position as to make it readily inaccessible when not in use.
- D. Equipment accessory to the operation and maintenance of a swimming pool and any structure housing such equipment shall be located at least 15 feet from any lot line. Where such equipment is not housed in a structure, it shall be screened from view from any public right-of-way and neighboring properties.
- E. Hot tubs, swim spas, and jacuzzi-type tubs or baths shall not be considered swimming pools provided they have a lockable cover, and shall be permitted in side or rear yards in accordance with the setback requirements of §170-1502.C.1 and 2.

SECTION 14. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or validity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal, invalid sentence, clause, section or part thereof not been included herein.

SECTION 15. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

SECTION 16. This Ordinance will be effective five (5) days after enactment.

[Signature page for Ordinance follows]

ENACTED AND ORDAINED by the Board of Supervisors of Westtown Township
this ____ day of _____, 2022.

ATTEST:

**WESTTOWN TOWNSHIP
BOARD OF SUPERVISORS**

Jon Altshul, Township Manager

Scott E. Yaw Esq., Chair

Thomas Foster, Vice Chair

Richard Pomerantz, Police Commissioner

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