

Town of Chevy Chase
Ordinance to Amend the Front Setback for Certain Corner Lots

Resolution No.: 10-04
Introduced: July 14, 2010
Adopted: September 15, 2010
Effective Date: October 16, 2010

WHEREAS, Article 23A, Section 2(a) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, Article 23A, Section 2(b)(5) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to make reasonable regulations concerning buildings to be erected within the limits of the municipality, including a building code and the requirement for building permits; and

WHEREAS, Section 301 of the Town of Chevy Chase Charter authorizes the Town Council to pass ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the resident(s) of the Town; and for such other police and health matters as it may deem necessary; and

WHEREAS, Article 28, Section 8-115.1 of the Maryland Code authorizes municipal corporations in Montgomery County, such as the Town of Chevy Chase, to regulate the construction, repair, erection or remodeling of buildings or other structures; the location of structures, including setback requirements; the dimensions of structures, including height, bulk, massing, and design; and lot coverage, including impervious surfaces; and

WHEREAS, after proper notice to the public, the Town Council introduced the following Ordinance in an open meeting conducted on the 14th day of July, 2010; and

WHEREAS, to comply with Article 28, Section 8-115.1 of the Maryland Code, on the 15th day of July, 2010, a copy of following Ordinance was submitted to the Montgomery County Council for its comments; and

WHEREAS, no comments were received from the Montgomery County Council; and

WHEREAS, after proper notice to the public, and after at least thirty days from the date a copy of the following Ordinance was transmitted to the Montgomery County Council, the

Town Council considered the following Ordinance in public session assembled on the 15th day of September, 2010; and

WHEREAS, upon consideration of the record of the public hearing, the Town Council finds that the front setback regulation for certain corner lots found at Section 4-4(a)(2) of the Town Code has led to confusion in its application, resulting in litigation involving the Town, and therefore should be amended; and

WHEREAS, the Town Council finds that corner lots are subject to multiple front setbacks and, as a result, the permissible building area of a corner lot is restricted to a greater extent than "mid block" lots in the Town; and

WHEREAS, by administrative interpretation of the current language in the Town Code, the Town has consistently allowed a reduced front setback for adjoining corner lots along a common street where there is no interior lot between the adjoining corner lots; and

WHEREAS, research conducted by Town staff revealed that that: 1) there are sixty-six properties in the Town that are adjoining corner lots; 2) of those sixty-six properties, permits have been issued to eleven properties where the permits allowed a front setback less than the 25-foot minimum front setback applicable to mid-block lots for the setback from the common street where there was no intervening interior lot; 3) only four properties received permits meeting a stricter 25-foot front setback, but the research did not reveal whether these applicants requested a reduced setback under Section 4-4(a)(2); and 4) Town staff has not located permits in the Town archives for the remaining fifty-one properties; and

WHEREAS, the Town Council finds that amending the front setback regulation for certain corner lots, as set forth below, would be consistent with the historical application of the Town Code; the existing development in the Town; and would maintain the character of the neighborhood; and

WHEREAS, the Town Council finds that the Ordinance as hereinafter set forth is necessary for the good government of the Town; for the protection and preservation of the Town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger and destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the Town.

NOW THEREFORE, the Town Council of the Town of Chevy Chase does hereby adopt the following ordinance:

AN ORDINANCE TO AMEND CHAPTER 4 OF THE TOWN OF CHEVY CHASE MUNICIPAL CODE TO AMEND THE FRONT SETBACK FOR CERTAIN CORNER LOTS.

SECTION 1. BE IT ORDAINED AND ORDERED, this 15th day of September, 2010, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Articles 23A and 28 of the Maryland Code and Section 301 of the Town Charter, that Chapter 4 of the Town Code is hereby amended to read as follows:

* * *

Sec. 4-4. Building location requirements; prohibitions.

(a) *Front setback.*

- (1) No main building, or any part or projection thereof, may be erected or located nearer to any front lot line than the established building line or twenty-five (25) feet, whichever results in a greater setback. Notwithstanding the foregoing, an addition may be constructed over a nonconforming one-story covered and enclosed structure in existence on February 22, 2006, and may encroach beyond the established building line setback, but not beyond the minimum twenty-five-foot setback, if the addition does not expand the footprint of the building.
- (2) For corner lots, any and all lines bordering upon a street or alley shall be considered a front lot line. Notwithstanding the foregoing, in the case of a corner lot, if **there is no interior lot between the corner lot and the adjoining corner lot** on one of the streets [either does not front on that street], or **if the adjoining lot** is in a nonresidential zone, the setback from that street shall be at least fifteen (15) feet.

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(Res. No. 06-10, 7-12-06; Res. No. 09-12, § 1, 3-10-10; **Res. No. 00-00, 00-00-10**)

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SECTION 2. AND BE IT FURTHER ORDAINED AND ORDERED, this 15th day of September, 2010, by the Town Council of the Town of Chevy Chase, acting under and by virtue of the authority granted to it by Articles 23A and 28 of the Maryland Code and Section 301 of the Town Charter, that:

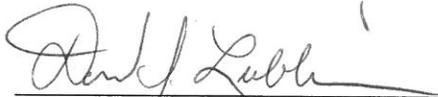
- (1) If any part or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and
- (2) This Ordinance shall take effect on the 16th day of October, 2010.

ATTEST:



 Albert Lang, Secretary

TOWN OF CHEVY CHASE



 David Lublin, Mayor
 Town of Chevy Chase

Bold and Underline indicates new material

[brackets] indicates material deleted

*** indicates material unchanged