



Legislation Text

File #: 22-123, **Version:** 1

TITLE:

Public Hearing on Text Amendment to the Land Use Ordinance Relating to Setbacks

PURPOSE: The purpose of this agenda item is for the Town Council to consider a proposed amendment to the Land Use Ordinance relating to the setback provisions for steps and associated landings. A draft ordinance has been prepared. The consideration of an amendment to the Land Use Ordinance is a legislative decision; the Council must receive public input before reaching a decision on the draft ordinance.

DEPARTMENT: Planning

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INFORMATION: Section 15-184 of the Land Use Ordinance (LUO) includes the requirements for building setbacks, the minimum distance between a structure and the property boundary line or right-of-way. The language in the subsection (a) is clear that the measurement is taken from “any portion of a building,” which includes porches, decks, steps or similar features.

There have been a few cases, over the years, where a deck or set of steps was constructed in a way that encroached into the setbacks and needed to be modified and/or relocated. In these cases, the feature may have been shown on a plot plan approved with a permit or may not have been shown at all.

Recently, the Zoning staff received and approved a site plan for a building permit application that did not show steps or a landing to a side entrance, only a sidewalk leading to a porch inset into the building itself. The finished floor elevation for the building was raised a few feet and in relation to the resulting topography necessitated some manner of bringing the grade to the entranceway. Suggestions from staff included either incorporating the needed steps within the building footprint itself or adding fill dirt to bring grade to the entrance on a slight slope, and then placing the sidewalk on a sloped grade, since the sidewalk is not subject to the setback requirements. The builder did not want to do either option, instead choosing to file an appeal to the Board of Adjustment regarding whether the steps and landing have to meet setbacks in accordance with the applicable LUO language. Staff discussed the matter and chose to bring forward a text amendment for consideration by the Council instead of placing the Board of Adjustment in what could be a broad policy making role by way of interpreting how much leeway the ordinance language does or does not have regarding the situation. The appellant agreed with this approach.

A draft ordinance has been prepared that, if adopted, would allow exterior steps and associated landings to encroach up to 50 percent of the building setbacks subject to certain criteria relating to the size and height of the stair unit (*Attachment B*). The draft ordinance has been revised since the March 1st Town Council meeting to limit the possible encroachment to the boundary line setbacks only and to reference the necessary fire code

separation; these changes make the language more consistent with other sections of the LUO. As part of the discussion at the March 1st meeting, Council members asked staff about the purpose of setbacks and requested information about how other municipalities treat steps in relation to setbacks and upper story access. Information from staff's research is provided in an attached table and can be discussed in greater detail at the meeting (*Attachment C*). Also provided is an excerpt from Article XII, Density and Dimensional Requirements with the existing setback provisions (*Attachment D*).

The Town Council must receive public comments before adopting amendments to the Land Use Ordinance. The draft ordinance was referred to Orange County, and the Planning Board and Appearance Commission. Comments from Orange County and the Planning Board are provided (*Attachment E*). The item was presented to the Planning Board and the Appearance Commission at the April 7th Joint Review Board meeting, but the Appearance Commission did not retain a quorum to the break-out portion of the meeting to complete its comments. The commission is scheduled to continue its discussion on April 21st.

It should be noted that setbacks have a number of benefits including but not limited to fire separation (building code), a place for utilities and drainage, space for maintenance, natural light and air. As the Town seeks opportunities for increasing density, more diverse and/or affordable housing or more compact development, lots will likely become smaller and/or more narrow. Allowing certain building elements to encroach into a portion of the setbacks may be appropriate in some situations, to ensure that the building has more than one point of ingress/egress, so long as the encroachment is consistent with other regulations.

FISCAL & STAFF IMPACT: Public notice costs and staff time are associated with the review of text amendments for public hearings and advisory board review.

RECOMMENDATION: Staff recommends that the Town Council holds a public hearing to receive comment on the proposed text amendment, and consider adopting the resolution for consistency (*Attachment A*) and the draft ordinance (*Attachment B*).