



MEMORANDUM

Date: February 18, 2008
To: Eric Faison, Town Administrator
From: Tom Phillips, Building Official
Bill Trimm, Town Planner
Subject: Options for Structures in Setbacks (Draft)

From time to time there have been discussions regarding whether or not certain structures should be allowed in a setback. The most commonly discussed types of structures include play structures, tree houses, retaining walls, patios, and landscape features such as fountains. Most recently play structures and tree houses have been discussed.

What is a setback? Generally a setback is the minimum distance a house must be setback from a property line but it is an area in which no structures are allowed. So if you have a 20 foot setback from a property line, not only must the house be a least 20 feet from the property line, but no other structures such as a shed or deck may constructed or placed in that area.

Setback distances can be different depending if it is for a front, side or rear property line. It is also different depending on which zoning area the property is in. Attachment #1 shows the different zoning areas and the different setback requirements inside of those zones. Attachment #2 is a map that shows where those zones are located.

Why do we have setbacks? Setbacks are required for a variety of reasons. The following is a list of the main reasons:

1. Provides a noise buffer between houses
2. Allows for light and air circulation between houses
3. Provides an aesthetically pleasing landscape
4. Provides a fire break between structures
5. Allows access for emergency personnel

What is a structure? This is part of the problem. The definition of structure is : *that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.* This could include just about everything including some items that have traditionally been allowed in setbacks such as fences, driveways and some types of landscape features. But is also means items that have not been allowed in setbacks such as sheds, carports, garages, kennels, swimming pools, deck and similar types of structures.

Because the current definition of ‘structure’ is so broad, it has been proposed that either the Zoning code be changed to clarify what types of structures are allowed in a setback or the definition of ‘structure’ be changed, or both.

During the February 4th 2008 Council meeting, the subject of play structures and other structures being allowed in a setback was discussed. It was decided that this issue should be brought to a public meeting for citizen input. This memo provides alternatives to the currently adopted code.

First, it would be helpful to clarify what is meant by the term “Play Structure”. As a starting point, the following definition could be used or modified;

***Play Structures include:** Swing sets, jungle gyms, playhouses and tree houses.*

The following options are being provided to initiate discussion related to modifying the current regulations related to play structures and other minor structures in the setback.

Option #1 – Allow Play Structures To Have The Same Setbacks A Game Courts

The setbacks for game courts are currently reduced for the R-87 (2 acre) zoning and the R-43 (1 acre) zones. This option would allow a play structure to be as close to a property line as a game court. For the R-87 zone, a play structure could be 30 feet from the front property line and 20 feet from the side and rear property lines. For the R-43 zone, a play structure could be 30 feet from the front property line and 10 feet from the side property lines and 20 from rear property line. As an alternate to this option, the rear setback in the R-14.5 and UR zones could be reduced to five or ten feet.

Pros: Based on the precedent that game courts are already allowed in some setbacks and that play structures are similar to games courts.

Cons: Doesn’t address other types of structures
Doesn’t provide an exception for the R-14.5 and UR zones

Option #2 – Revise the Definition of the Word Structure

Section 14.08.300 of the Municipal code states in part; *There shall be no structures or projections allowed in the setback area.* The definition of structure is currently; *that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.* This is a conflicting definition because some structures are already allowed in the setbacks such as driveways, fences and utility equipment. The following alternate definition would allow some play structures in the building setback as well as other structures that have traditionally been allowed in setbacks.

"Structure(s)" for the purposes of Section 14.08.300, means anything constructed or erected on the ground or any improvement built up or composed of parts joined together in some definite manner and affixed to the ground, including patios and decks of any height. Structures shall not include:

- 1. Fences and fence walls in compliance with this code*
- 2. Game courts as provided elsewhere in this Code*
- 3. Utility poles and vaults*

4. *Light poles in compliance with this code*
5. *Play structures – not more than 15 feet high nor with a roof more than 120 square feet in area.*
6. *Mail boxes*
7. *Landscape fountains,ponds, sculptures, benches and flowerbed frames*
8. *Rockerries and retaining walls that support a cut in the grade*
9. *Driveways, sidewalks and grade level steps*
10. *Landings at doors not more that 18 inches above grade*

An alternate to this option would be to also include arbors and trellises not more than 15 feet high. Other items that have come up in the past include, electrical gerators and air conditioning compressors.

Pros: Is very comprehensive

Cons: Doesn't have the flxibility to treat each zone differently

Option #3 – Revise Section 14.08.300 to Allow Some Structures in the Setback

This would accomplish the same as option #2 without revising the definition of structure. Currently Section 14.08.300 of the Municipal code states in part; *There shall be no structures or projections allowed in the setback area.* This option would change the wording of 14.08.300 to state:

There shall be no structures or projections allowed in the setback area except the following:

1. *Fences and fence walls in compliance with this code*
2. *Game courts as provided elsewhere in this Code*
3. *Utility poles and vaults*
4. *Light poles in compliance with this code*
5. *Play structures – not more than 15 feet high nor with a roof more than 120 square feet in area.*
6. *Mail boxes*
7. *Landscape fountains,ponds, sculptures, benches and flowerbed frames*
8. *Rockerries and retaining walls that support a cut in the grade*
9. *Driveways, sidewalks and grade level steps*
10. *Landings at doors not more that 18 inches above grade*

An alternate to this option would be to also include arbors and trellises not more than 15 feet high\ in the list.

Pros: More logical than Option #3 because its not the definition of structures that is the problem, rather what types of structures are allowed in the setbacks

Cons: Doesn't have the flexibility to treat each zone differently

Option #4 – Put Setback Exceptions Within the Specific Zoning Requirement Chapters

This option would delete the wording in Section 14.08.300 of the Municipal code that states; *There shall be no structures or projections allowed in the setback area.* Instead, where the

specific zoning requirements of each zone are listed (Chapters 14.24, 14.28, 14.32 and 14.36), a new subsection would be included that states:

There shall be no structures or projections allowed in the setbacks of this zone except the following:

- 1. Fences and fence walls in compliance with this code*
- 2. Game courts as provided elsewhere in this Code*
- 3. Utility poles and vaults*
- 4. Light poles in compliance with this code*
- 5. Play structures – not more than 15 feet high nor with a roof more than 120 square feet in area.*
- 6. Mail boxes*
- 7. Landscape fountains, ponds, sculptures, benches and flowerbed frames*
- 8. Rockeries and retaining walls that support a cut in the grade*
- 9. Driveways, sidewalks and grade level steps*
- 10. Landings at doors not more than 18 inches above grade*

An alternate to this option would be to also include arbors and trellises not more than 15 feet high in the list.

This would have a similar effect as options #2 and #3 but would provide for the flexibility of allowing certain structures in the setbacks in different zones. For example, play structures could be allowed in the setbacks in the R-87 and R-43 zones, because the setbacks are larger, but not in the R-14.5 and UR zones where the setbacks are smaller.

Pros: Very comprehensive and flexible

Cons: Requires the most codes changes and staff time

Option #5 – Revise the Town’s Setback Regulations

This option would relax the current building setback requirements in the R-87 and R-43 zones. For example the the R-87 zone could change to the current requirements of the R-43 zone and the R-43 zone could change to that allowed in the R-14.5 zone.

Pros: Provides an opportunity to re-evaluate the Town’s values and character

Cons: Change the Town’s character
Very time consuming with questionable results

Option #6 – Make No Changes

This would leave the current regulations and definitions as they currently are.

Pros: Requires no additional work

Cons: Does not address a reoccurring problem

It may be desired to combine two or more of the options. For example, option #1 can be used for

play structures but options #2 through #4 might be used for other minor structures.