CITY OF HARRISONBURG

May 13, 2025, City Council Meeting

Title
Zoning Ordinance Amendment to Reduce Accessory Building Setbacks for Through Lots in the UR District — Adam Fletcher, Community Development

Summary

Zoning Ordinance Sections	Amend Section 10-3-114(d)
Purpose	To remove the requirement that accessory buildings meet the principal building setback on through lots in the UR district.
Applicant	Miranda Ebersold
Planning Commission	February 18, 2025 (Public Hearing)
City Council	May 13, 2025 (First Reading/Public Hearing) Anticipated May 27, 2025 (Second Reading)

Recommendation
Staff and Planning Commission (5-0) recommend Option 1. Approve the Zoning Ordinance amendment with the suggested modifications from staff.

Fiscal Impact
N/A

Context & Analysis
Through lots are lots where both the front and rear yards face public streets. Zoning Ordinance (ZO) Section 10-3-112(1) requires that rear yard setbacks on through lots be subject to the minimum front yard setback regulations. In the UR district, the minimum front yard setback is 25 feet; therefore, the through lot minimum rear yard setback is 25 feet.

With regard to location and setback requirements for accessory buildings, ZO Section 10-3-114(a) requires that accessory buildings in residential districts be located in the rear yard, to not occupy more than 30 percent of the required rear yard, and be not less than five feet from the side and rear lot lines. In addition, ZO Section 10-3-114(d) prohibits accessory buildings in a residential district from being located between a principal building and a public street, except that for through lots the accessory building may be located “within the established rear yard between the principal

building and a public street **and meet principal building setbacks**" (emphasis added). As noted above, the principal building minimum front yard setback in the UR district is 25 feet. Thus, an accessory building on a through lot in the UR district shall be located in the established rear yard, shall be no closer than five feet from side property lines, and no closer than 25 feet from the public street right-of-way line along the established rear yard.

If the ZO is amended as presented by the applicant, it would allow for accessory buildings on through lots in the UR district to be constructed five (5) feet from the public street right-of-way line along the established rear yard.

Board of Zoning Appeals
On August 7, 2023, the Board of Zoning Appeals (BZA) heard the applicant's request for four variances to deviate from the rear and side yard setbacks, and the requirement that accessory buildings not exceed 30 percent of the required rear yard. The applicant had proposed to construct a detached garage in the rear yard of the property addressed as 260 Franklin Street and identified as tax map parcel 26-I-7. The requested variances would have allowed the applicant to construct the garage one foot from the side and rear yard property lines.

A BZA is required to act in accordance with the standards of Virginia Code §15.2-2309(2) and may only grant the variance if the ZO would "unreasonably restrict the utilization of the property or that granting of the variance would alleviate a hardship due to the physical conditions relating to the property." The Code references specific criteria that must be met for an application to meet the standard for a variance as defined in §15.2-2201, and which are further explained in the staff memorandum available here: https://harrisonburg-va.legistar.com/LegislationDetail.aspx?ID=6304071&GUID=8B0DBE65-7E50-42B0-B5C3-EC4D5FB5F044&Options=&Search=.

Staff evaluated the BZA application through the variance standards and determined that the application did not meet the criteria, stating:

> The owner already has reasonable use of the property without the proposed detached garage as the dwelling may still retain its use as a single-family dwelling. Additionally, based on the proposed garage dimensions provided, the garage could be constructed in the rear yard and meet all setback requirements, building area requirements, and be constructed by right. Failure to satisfy this condition, regardless of any other satisfied criteria referenced above, means the request does not meet the definition of a variance per Virginia State Code and should be denied.

The BZA denied a variance request.

While the BZA denied that request, it should be noted that that the BZA has granted three (3) similar setback requests. On May 5, 1991, a setback variance request was granted to the property located at 272 Franklin Street; on August 15, 2011, a setback variance request was granted to the property located at 254 Franklin Street; and, on January 7, 2019, a setback variance request was granted to the property located at 218 Franklin Street. In 2019, BZA Chair Mr. Phillippi who voted against the variance request, expressed that under case law the BZA does not have the authority to grant the variance unless all the conditions listed in the Virginia Code are met. He added that approving the variance may result in legal action against the BZA for overstepping their authority. The BZA voiced a decision of 3-2 to approve the variance.

Through Lots in the UR, Urban Residential District

Through lots exist in different zoning districts throughout the City. However, with regard only to the UR district, there are 10 through lot properties on Layman Avenue, 17 through lots on Ash Tree Lane, 16 through lots on East Bruce Street, and six through lots on East Water Street. The proposed ordinance amendment would apply to all 49 parcels.

Evaluation and Recommendation

Staff acknowledges that there are buildings that are nonconforming to setbacks, that property owners have received variances from the BZA approving reduced setbacks, and that there are structures that likely abut or encroach in the public street right-of-way on East Bruce Street; Nonetheless, staff does not believe that a five foot setback is appropriate for through lots in the UR district. Structures that abut or encroach on the public street right-of-way at times can impede sight distance for neighboring entrances and driveways. In some cases, residents might block the public street right-of-way while opening and closing a garage or by parking vehicles in front of their garages, creating obstructions and potentially hazardous situations for other users of the street.

If there is desire to reduce the setback for these types of properties, staff believes a more appropriate and uniform reduced setback would be no less than 10 feet. A 10-foot setback would mimic the existing permissible front yard setback in the R-5, High Density Residential and R-8, Small Lot Residential districts. A 10-foot setback would also be more reasonable given that it can accommodate more flexibility for the property owner while maintaining better lines of sight distance for these types of environments and, if the need arises, allows for future street improvements to occur without impacting more structures. Furthermore, the 10 feet directly behind public street right-of-way lines is at times a desirable location for positioning many different utilities.

If the Zoning Ordinance is amended as requested by the applicant, it would allow for accessory buildings to be constructed five (5) feet from rear yard property lines that front on public streets. As noted above, staff does not believe that a five-foot setback is appropriate. However, staff does

support reducing the setback to allow accessory buildings to be constructed 10-feet from the rear yard property lines that front on public streets. This would provide a 15-foot reduction in setbacks for the applicant.

Options

1. Approve the Zoning Ordinance amendment with the suggested modifications from staff.
2. Deny the Zoning Ordinance amendment.
3. Approve the Zoning Ordinance amendment as presented by the applicant.

Attachments

- Extract from Planning Commission
- Corrected - Current Ordinance Reflecting Amendments as requested by the applicant
- Corrected - Current Ordinance Reflecting Amendments as recommended by staff
- Application and supporting documents

(Note: In Legistar, both versions of the *Corrected - Current Ordinance Reflecting Amendments* were updated between the Planning Commission and City Council meeting to correct a reference to “subsection (d)”. No other changes were made.)