





Zoning Text Amendment 14-02 – Solar Energy Structures-- Updated

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Completed: 2/~~14~~20/14

Description

ZTA No. 14-02 amends exemptions from height controls, and exemptions for projections for solar energy structures. Specifically, this amendment will allow a two foot extension of the accessory structures in rear and side yard setbacks in all zones and exclude solar energy structures from building height limits.

Summary

Staff supports the proposed text amendment to allow solar energy panels to be exempt from the height requirements. Staff also supports amending the encroachment into rear and side yard for accessory solar energy structures and clarifying language so that in those non-residential zones, which do not have accessory building or structures rear and side yard setbacks that the language refer to the building rear and side yard setbacks.

Council members Berliner and Navarro sponsored Zoning Text Amendment 14-02 to exempt certain solar energy structures from height and setback standards in all zoning districts. The sponsors would require solar panels to extend two feet into the side or rear yard setbacks two feet. Additionally, solar energy panels would be exempt from building height limits in certain instances.

Background/Analysis

This ZTA would apply to all buildings (both accessory and main) in all current zoning districts. The Montgomery County Zoning Ordinance contains multiple building setbacks for all zones, and can range from three feet (for example the RMX-2C zone, if adjacent to another commercial zone) to 200 feet (for example, the C-6 Zone if the building is located adjacent to a master-planned limited access freeway). However, very few non-residential zones have side and rear yard setbacks for accessory structures. Setbacks for accessory buildings or structures,

if permitted in a non-residential zone, can be set through site plan review under §59-D-3, if required by the underlying zone. In one-family detached residential zones, and agricultural zones, side and rear yards are defined for accessory buildings or structures. This text amendment does not propose to alter rear or side yard setbacks for any residential or non-resident zone, rather it is to allow solar energy structures to extend 2 feet into side and rear yard setbacks (both primary and accessory buildings).

On July 7, 2008, Zoning Text Amendment 08-04 became effective allowing solar energy structures to be located in the side yard in any one-family residential zone if the main building is set back no less than 70 feet from the side lot line. Solar panels are required to be located no less than 50 feet from a side lot line, be less than 20 feet in height and satisfy the street line and rear lot line setbacks for an accessory structure (or building). This amendment would exempt solar energy structures from this provision, and allow an extension within the rear and side yards by two feet.

Staff reviewed multiple jurisdictions recommendations with regard to height and setback requirements for solar energy structures to establish a baseline for what is exempt and what is not, as well as how jurisdictions require setbacks from lot lines. For this particular accessory use, there are many different zoning ordinance standards. In general, there two different approaches: those jurisdictions that require that the solar energy structure not exceed the maximum principal building or accessory building heights of the zone in which it is located, and those jurisdictions that allow excess height. In some jurisdictions, roof-mounted solar panels were exempt from the inclusion for the calculations of building heights; however, those jurisdictions recommended maximum extensions from the allowable roof height. Height extensions for roof-mounted solar panels were as low as five feet (attached to the main building, San Diego, California) or as high as ten feet (Mesa and Tucson, Arizona).

There is also a wide range in rear and side yard setbacks for solar energy structures from 1.5 feet setbacks (all yards) in Wisconsin to four feet (Tucson), and 10 feet (Monroe County, PA). Staff believes that with modern advances in solar technology, coupled with the ability to mount solar panels as awnings, that it would be feasible to allow rear and side yard encroachments similar to those allowed porches in Montgomery County (three feet). This should not be allowed in areas where less than three-foot setbacks.



Recommendation

Staff supports the proposed text amendment to allow solar energy panels to be exempt from the height requirements. Staff also supports amending the encroachment into rear and side yard for accessory solar energy structures to 3 feet and modifying language so that in those non-residential zones, which do not have accessory building or structures rear and side yard setbacks that the language in those instances refer to the building rear and side yard setbacks (Attachment 1).

Attachments

1. ZTA 14-02, as amended by Planning Board Staff

Zoning Text Amendment No.: 14-02
Concerning: Exemptions – Solar
Panels
Draft No. & Date: 1 – 1/10/14
Introduced: January 28, 2014
Public Hearing:
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Berliner and Navarro

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

Exempt certain solar energy structures from height and setback

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the Montgomery County Code:

- DIVISION 59-B-1. “EXEMPTIONS FROM HEIGHT CONTROLS.”
Section 59-B-1.1. “Belfries, chimneys, etc.”
DIVISION 59-B-3. “EXEMPTIONS FOR PROJECTIONS.”
Section 59-B-3.1. “Steps, terraces, and porches.”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance

1 **Sec. 1. DIVISION 59-B-1 is amended as follows:**

2 Division 59-B-1. EXEMPTIONS FROM HEIGHT CONTROLS.

3 **Sec. 59-B-1.1. Belfries, chimneys, etc.**

4 The building height limits under this chapter do not apply to belfries, chimneys,
5 cupolas, domes, flagpoles, flues, monuments, television antennae or aerials, spires,
6 tanks, water towers, water tanks, air conditioning units, solar energy panels, or
7 similar roof structures, and mechanical appurtenances, or, if associated with an
8 optional method development project and where recommended in an approved
9 urban renewal plan, rooftop architectural features, except:

- 10 (a) Where such structures are located within an airport approach area, as
11 designated on the zoning map; or
12 (b) In the case of air conditioning units or similar roof structures and mechanical
13 appurtenances located on buildings in the RT-6.0, RT-8.0, RT-10.0, RT-12.5
14 and R-30 Zones or constructed under the standard method of development
15 procedures in the CBD-0.5, CBD-R, and CBD-1 Zones, this exemption is
16 limited to 8 feet.

17 A roof structure must not have a total area greater than 25 percent of the roof area
18 except that a larger area may be approved for buildings approved by the Planning
19 Board under the optional method of development procedures in the central
20 business district zones. A roof structure must not be used for any purpose other
21 than a use incidental to the main use of the building. Exempt space must not be
22 used for retail, general and professional offices, or similar uses.

23 * * *

24 **Sec. 2. DIVISION 59-B-3 is amended as follows:**

25 Division 59-B-3. EXEMPTIONS FOR PROJECTIONS.

26 **Sec. 59-B-3.1. Steps, terraces, solar panels, and porches.**

- 27 (a) Open steps and stoops, exterior stairways, terraces, and porches may extend
28 into any minimum front or rear yard not more than 9 feet.
- 29 (b) For side yards[;]:
- 30 [(i)] (1) except in the case of a corner lot, open steps, stoops, exterior
31 stairways, terraces, and porches may extend into any minimum side
32 yard not more than 3 feet;
- 33 [(ii)] (2) on a corner lot having a minimum side yard 25 feet or more in
34 width, open steps, stoops, exterior stairways, terraces, and porches
35 may extend into such minimum side yard not more than 9 feet; and
- 36 [(iii)] (3) on a corner lot having a minimum side yard of less than 25 feet
37 in width, there must be no encroachment on the minimum side yard.
- 38 (c) Steps, stoops, and exterior stairways and terraces that extend into the
39 minimum required yards may be roofed but must not be enclosed. Any roof
40 covering steps, stoops, exterior stairways, and terraces may extend not more
41 than 3 feet into the minimum required yard.
- 42 (d) Roofed, but not enclosed, porches may extend into the minimum required
43 front or rear yard not more than 9 feet, including the roof. If any portion of a
44 roofed, but not enclosed, porch extends into the required minimum front
45 yard, the porch and its roof may extend not more than 9 feet from the face of
46 the building parallel to the front lot line.
- 47 (e) Solar panels may extend [2] 3 feet into any established side or rear setback
48 for accessory buildings or structures; however, in those zones which do not
49 establish rear and side yard setbacks for accessory buildings or structures the
50 building rear and side yards setbacks shall be used, but no instance should
51 the solar energy structure setback be no be less than three (3) feet.

52 * * *

53 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
54 date of Council adoption.

55

56 This is a correct copy of Council action.

57

58

59 Linda M. Lauer, Clerk of the Council