

ORDINANCE NO. 1970

AN ORDINANCE AMENDING ARTICLES III, IV, V, VII, VIII, XVIII, XX, XIX OF THE CITY CODE REGARDING BUILDING LIMITATIONS IN RESIDENTIAL ZONING DISTRICTS, USE EXEMPTIONS, EXCEPTIONS TO REQUIRED SETBACKS FOR ARCHITECTURAL FEATURES, AND ACCESSORY BUILDINGS ON RESIDENTIAL LOTS

BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, that Articles III, IV, V, VII, VIII, XVIII, XX, XIX of the City Code are hereby amended to as follows:

Section 1.

“Article III. – Residence A District

Sec. 129-34. - Area and dimensional requirements.

(c) Building limitations.

(1) Maximum building area25 percent of the total area of the parcel.

Impervious surfaces are limited to 5% more than the allowed maximum building area, as specified in section 113-228 (e) of Chapter 113.

Article IV. – Residence B District

Sec. 129-52. - Area and dimensional requirements.

(c) Building limitations.

(1) Maximum building area35 percent of the total area of the parcel.

Impervious surfaces are limited to 5% more than the allowed maximum building area, as specified in section 113-228 (e) of Chapter 113.

Article V. – Residence C District

Sec. 129-62. - Area and dimensional requirements.

(c) Building limitations.

(1) Maximum building area35 percent of the total area of the parcel.

Impervious surfaces are limited to 5% more than the allowed maximum building area, as specified in section 113-228 (e) of Chapter 113.

Article VII. – Residence D District

Sec. 129-92. - Area and dimensional requirements for townhouses.

(d) Building limitations.

(1) Maximum building area50 percent of the total site area.

Impervious surfaces are limited to 5% more than the allowed maximum building area, as specified in section 113-228 (e) of Chapter 113.

Sec. 129-93. - Area and dimensional requirements for duplexes and apartment houses.

(d) Building limitations.

(1) Maximum building area37½ percent of the total area of the parcel.

Impervious surfaces are limited to 5% more than the allowed maximum building area, as specified in section 113-228 (e) of Chapter 113.

Article VIII. – Residence E District

Sec. 129-112. - Area and dimensional requirements for townhouses only.

(d) Building limitations.

(1) Maximum building area:40 percent of the parcel.

Impervious surfaces are limited to 5% more than the allowed maximum building area, as specified in section 113-228 (e) of Chapter 113.

Article XVIII. – General Regulations and Provisions

Sec. 129-292. - Use exemptions.

Notwithstanding any other provision of this chapter, there may be constructed or installed in or upon a parcel located within any zoning district, such equipment and minor structures and improvements incidental to the provision and distribution of gas, electricity, water and telecommunication services, including, but not limited to, gas regulators, fogging stations, electric transformer stations without major rotating equipment, solar panel systems, poles, cables and towers for the transmission of electricity, water pressure regulator stations, water pumping stations, telephone exchanges, cables, poles, antennas and masts for antennas as may be approved by the planning commission.

Article XX. – Exceptions to General Area and Dimensional Requirements

Sec. 129-336 – Exceptions to required setbacks for architectural features.

Encroachments of certain architectural features may be allowed into required front, side, and/or rear setbacks in accordance with the standards of this subsection.

- (a) Cantilevered awnings and canopies may project into a required front, side, and/or rear setback no more than three (3) feet.
- (b) Bay windows and greenhouse windows may project into a required front, side, and/or rear setback no more than two (2) feet, including the drip line, with a maximum width of eight (8) feet.
- (c) Chimneys may project into a required front, side, and/or rear setback, no more than two (2) feet, with a maximum width of eight (8) feet.
- (d) Cornices, pilasters, sills, and other similar decorative architectural features may project into a front, side, and/or rear yard no more than one (1) foot.
- (e) Eaves may project into a front, side, and/or rear yard no more than two (2) feet, with a minimum of two (2) feet maintained to any adjoining lot line.

Article XIX. – General Area and Dimensional Requirements

Sec. 129-314. - Accessory structures and accessory buildings on residential lots

- (a) *Size.* Accessory buildings may not contain more than the greater of 800 square feet of floor area or 20 percent of the floor area of the principal building on the lot. The height of an accessory building may not exceed the height of the principal building on the lot.

(b) *Relationship to parcel and dwelling.* No accessory structure or accessory building in a residential district may be erected in any actual or required front yard. An accessory building may not be located closer than ~~ten~~ 10 feet to any other structure on the same parcel and may not occupy more than 15 percent of any actual or required rear or side yard. An accessory structure or accessory building must be located at least ~~five~~ 5 feet from the dwelling on the parcel on which the accessory structure or building is located, and may be attached to the principle structure by means of a covered, open breezeway that is no wider than 8 feet, is not enclosed (contains no more than two (2) walls) and is not heated nor cooled. Notwithstanding the foregoing, fences or walls can be erected up to the property line, and may be erected directly adjacent to the principal structure.

(c) *Setback requirements.* All accessory buildings which do not exceed ~~400~~ 625 square feet and ~~15~~ 25 feet in height (or the height of the principle structure on the lot, whichever is lower), must be at least ~~ten~~ 10 feet from all lot lines, except that such buildings may be allowed to conform to the required side setbacks for principal buildings on non- conforming Residence B and Residence C lots, as specified in sections 129-53 and 129-63 of this chapter. Accessory buildings exceeding ~~400~~ 625 square feet or ~~15~~ 25 feet (or the height of the principle structure on the lot, whichever is lower) shall be subject to the regular setbacks specified in the regulations for each zoning district. Notwithstanding any other provision contained in this chapter, no accessory structure or accessory building may be located in a front yard or nearer than 60 feet to the front street line of the parcel on which the accessory structure or accessory building is located.'

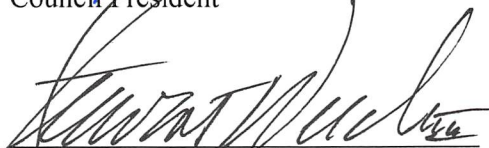
2. **Repealer.** All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.
3. **Severability.** If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.
4. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

ADOPTED: The 10th day of January, 2017.



Council President

APPROVED: The 10th day of January, 2017.



Mayor

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on January 10, 2017, as same appears in the minutes of record of said meeting, and published by posting copies thereof on January 11, 2017, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street
Overton Park, 3020 Overton Road

Gilchrist Pharmacy, 2805 Cahaba Road
Cahaba River Walk, 3503 Overton Road



City Clerk

Proposed Zoning Amendments

The ZOR (Zoning Ordinance Review) Committee and the Planning Commission recently reviewed several proposed zoning amendments regarding the zoning code of the City of Mountain Brook, specifically pertaining to Articles III, IV, V, VII, VIII, XVIII, XX, XIX, and has forwarded the recommendations herein to the City Council. The ZOR Committee consisted of Phil Black, Susan Swagler and the BZA Chairman and Co-Chairman, Patrick Higginbotham and Will Hereford. Also, staff solicited the input of local architects with respect to items 3 and 4 below.

The exact language of all proposed changes is attached—new language is written and underlined in red ink.

All amendments are discussed at length below:

1. Insert a Reference to the Storm Water Detention Ordinance in the Zoning Code

Within each residential article of the zoning code there is a regulation limiting the maximum building area for a lot in said district. The intent of this regulation is to limit the maximum lot coverage (or building footprint) for each lot. However there is an additional regulation that is derived from the storm water ordinance (which is not in the zoning code) which further limits *all* impervious area (which includes the building footprint, driveway, walkway, patio, etc.) on a residential lot to 5% more than the maximum building area specified in a particular zoning district.

The problem encountered by staff is that design professionals have a difficult time finding the storm water ordinance limitations. They arrive at the “maximum building area” regulation in the zoning code and then incorrectly assume this is the maximum impervious area, or if they know there is a separate regulation for the overall impervious area they have a hard time locating it.

The purpose of this zoning amendment is to link the two regulations together by inserting a note (actually a *link* for the on-line version of the municipal code) regarding the storm water ordinance regulation alongside the maximum building area regulations noted in each residential article of the zoning code. This will make it easier for citizens to quickly find the ordinance, and will look like this for Res-A:

“(c) *Building limitations.*

(1)Maximum building area25 percent of the total area of the parcel.

Impervious surfaces are limited to 5% more than the allowed maximum building coverage, as specified in section 113-228 (e) of Chapter 113.

(2)Maximum building height35 feet

(3)Maximum number of stories2”

The attached proposed language inserts this change into each of the following residential articles: Res-A, Res-B, Res-C, Res-D and Res-E.

2. *Insert Specific Language Regarding PC Review of Solar Panel Systems*

The purpose of this proposed zoning amendment is to specifically mention *solar panel systems* in Section 129-292, Use Exemptions, (Article XVIII – General Regulations and Provisions). This section of the zoning code allows for the installation of a variety of utility equipment and minor structures in any zoning district, with the approval of the Planning Commission, but does not specifically mention solar panel systems (simply because such systems were probably not common when the original provision was written).

The Planning Commission recently reviewed a request to install a ground mount solar panel system on a residential lot, and staff referenced this section of the zoning code for Planning Commission authority to review, but recognized the need to add specific language to the code.

“Sec. 129-292. - Use exemptions.

Notwithstanding any other provision of this chapter, there may be constructed or installed in or upon a parcel located within any zoning district, such equipment and minor structures and improvements incidental to the provision and distribution of gas, electricity, water and telecommunication services, including, but not limited to, gas regulators, fogging stations, electric transformer stations without major rotating equipment, solar panel systems, poles, cables and towers for the transmission of electricity, water pressure regulator stations, water pumping stations, telephone exchanges, cables, poles, antennas and masts for antennas as may be approved by the planning commission.”

3. *Exceptions to Required Setbacks for Architectural Features (all new language)*

This section is proposed as new language to be added under Article XX – Exceptions to General Area and Dimensional Requirements. This section will make specific reference to allowable encroachments of certain minor architectural features into required front, side, and/or rear setbacks.

The purpose of this section is to allow architectural enhancements to residential structures without the need for a variance. Decorative architectural features such as awnings, bay windows, cornices, and pilasters serve to add architectural interest and enhance the housing inventory of the city. However, the Board of Zoning Adjustment has often denied requests of this nature (in accordance with state law) since they rarely relate to a hardship inherent to the site. This has been especially true in cases where an older house may have a flat front elevation and the front door has no protection from the elements and is devoid of architectural interest. The house is usually built to the allowable front setback line and the request has come to BZA for a canopy over the door, which would then encroach into the required front

setback. Since there has typically been no hardship associated with such a request the BZA has been bound to deny, although the encroachments are minor in nature and would not be detrimental to the streetscape or adjoining properties.

The proposed language in this section would allow minor architectural features to encroach into setbacks, but with limited parameters regarding the amount of allowable encroachment and, in some cases, the width of a particular architectural feature. Some of the language would permit encroachments not currently allowed in a required setback without a variance (such as bay windows, canopies and awnings) and some of the language will simply codify an existing practice of allowing certain types of encroachments without a variance (such as cornices and eaves).

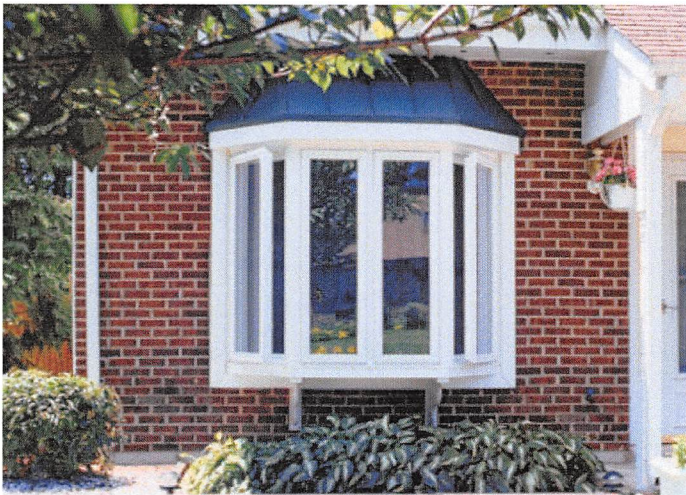


Figure 1 - Bay Window.

This bay window would be permitted in the proposed section, which states, “Bay windows and greenhouse windows may project into a required front, side, and/or rear setback no more than two (2) feet, including the drip line, with a maximum width of eight (8) feet.”

Figure 2 - Cornice.

Cornices, such as the one to the right, add a distinction to the dwelling and provide a sense of character. This proposal will clarify language for allowance of these charming features. “Cornices, pilasters, sills, and other similar decorative architectural features may project into a front, side, and/or rear yard no more than one (1) foot.”



Figure 3 - Awning.

This awning would be permitted in the proposed section, which states, “Cantilevered awnings and canopies may project into a required front, side, and/or rear setback no more than three (3) feet.”

Also, the Board of Zoning Adjustment has requested that chimneys be a permitted encroachment (with limitations on the amount of encroachment and the width of the chimney).

Figure 4 - Chimney.

This chimney would be permitted in the proposed section, which states, “Chimneys may project into a required front, side, and/or rear setback, no more than two (2) feet, with a maximum width of eight (8) feet.”



4. Accessory Buildings on Residential Lots

There are two parts to this section; one addresses the relationship of an accessory building to the principle structure (as far as what is consider “attached” or “detached”), the other addresses the allowable size and height of accessory buildings which are eligible for reduced side and rear setbacks.

a. Is it attached or detached?

It has historically been the practice of city staff to differentiate between detached and attached accessory buildings based on whether or not the “attachment” was heated and cooled. If so, it was considered to be attached. However, this interpretation is not in the zoning code, so the purpose of this this amendment is to codify this interpretation. The following language is proposed to be added to Section 129-314(b) of Article XIX (General Area and Dimensional Requirements).

An accessory building... “may be attached to the principal structure by means of a covered, open breezeway that is no wider than 8 feet, is not enclosed (contains no more than two (2) walls) and is not heated nor cooled.”

This proposal will add clarity and regulation, allowing citizens to add this connection without adding additional square footage to their principal dwelling.



Figure 5 - Detached Accessory Building.

This open breezeway from the principle structure to the accessory building would be allowed under the proposed additional language.

It is:

- ✓ Not enclosed
- ✓ Not heated nor cooled
- ✓ Less than 8 feet wide

b. Size and Height of Detached Accessory Buildings

Also being proposed is a change to the existing maximum square footage and height limit for detached accessory buildings which are eligible for reduced side and rear setbacks (10 feet).

For the purpose of reference, the zoning code has an absolute cap on the size and height of accessory buildings (maximum size is the greater of 800 square feet or 20% of the principle building, and the maximum height is no higher than the principle building). The setbacks required for accessory buildings of this size and height are the same as the principle building for the zoning district in which it is located. *There is no change being proposed to this cap or the related setbacks.*

There is also a regulation that allows smaller detached accessory buildings to be 10 feet from the side and rear property lines. Those eligible for these reduced setbacks are currently limited to 400 square feet and 15 feet in height. *The proposal is to increase the square footage and height allowances for these types of buildings.*

Historically, 400 square feet (20x20) has been a common size for a two-car garage; this allows for two (10x20) parking spaces inside a garage. And while this size can accommodate SUV's and larger contemporary vehicles, it proves to be

somewhat of a tight squeeze. As such, homeowners often ask architects to design slightly roomier garages (perhaps with a little storage).

The Board of Zoning Adjustment frequently approves requests for new and remodeled detached accessory buildings (which slightly exceed 400 square feet) to be 10 feet from the side or rear property line. Local architects were asked for input on this issue and expressed that 25x25 (625 square feet) would be much more accommodating and result in fewer requests for variances.

Also, the Board of Zoning Adjustment occasionally reviews requests for detached accessory buildings to be higher than 15 feet. This is usually a result of the designer attempting to match (or nearly match) a steep pitched roof on the principle building. Many houses in Mountain Brook take their architectural roots from European design, which often entails steeper roof pitches. However, when the detached accessory building is limited to 15 feet in height, it ends up looking more like an afterthought (or a shed) than part of a thoughtful, integrated design. And since the height of a building rarely has any real relationship to the site (or hardship) BZA has had to deny, resulting in fewer architectural amenities in the city.

The proposed language is as follows:

Setback requirements. All accessory buildings which do not exceed 400 625 square feet and ~~15~~ 25 feet in height (or the height of the principle building on the lot, whichever is lower), must be at least ~~ten~~ 10 feet from all lot lines, except that such buildings may be allowed to conform to the required side setbacks for principal buildings on non-conforming Residence B and Residence C lots, as specified in sections 129-53 and 129-63 of this chapter. Accessory buildings exceeding 400 625 square feet or ~~15~~ 25 feet (or the height of the principle structure on the lot, whichever is lower) shall be subject to the regular setbacks specified in the regulations for each zoning district.

It should be noted that in Res-B and Res-C (Crestline and English Village), for lots less than 70 feet wide, the code allows the principle building to be 8-9 feet from the side property line and be 35 feet high).

The code currently does not differentiate between detached garages and accessory building with other uses, such as storage buildings, offices, pool houses and greenhouses. *No change is herein proposed.*