



**Resolution in Opposition to Proposed Zoning Ordinance
Amendment Re Minimum Required Rear Yard Coverage
Limitations for Single-Family Detached Dwellings**

April 4, 2018

Whereas, the Board of Supervisors has authorized public hearings with regard to proposed amendments to Articles 8,10,12, and Appendix 2 of the Zoning Ordinance (“ZO”) concerning minimum required rear yard (“MRRY”) coverage limitations for single-family detached dwellings; and

Whereas, Section 10-103 (3) of the ZO currently contains a limitation for single-family detached dwellings stating that all accessory uses and structures “shall cover no more than thirty (30) percent of the area of the minimum required rear yard”; and

Whereas, such “accessory uses and structures” include sheds, detached garages, driveways, swimming pools, patios, children’s playhouses and equipment, and sports courts; and

Whereas, under the current ZO, the only way to seek relief from Section 10-103 is to request a variance in Residential Districts (“R-districts”) or a Final Development Plan Amendment in Planned Development Districts (“P-districts”); and

Whereas, County staff is recommending amendments to the ZO that would change the process by which such relief may be sought; and

Whereas, with respect to the R-districts, the proposed ZO amendment (a) would keep the limitation on MRRY coverage at 30%, but would create a new Group 9 Special Permit route by which the Board of Zoning Appeals (“BZA”) could (i) remedy existing violations that exceed 30%, and (ii) approve new plans having MRRY coverage of up to 60%; and

Whereas, with further respect to the R-districts, the proposed amendment would still require a variance for plans having MRRY coverage of more than 60%; and

Whereas, with respect to single family dwellings in the P-districts (which typically have smaller lots than the R-districts), the proposed ZO amendment would (a) completely exempt lots under 5,000 sq.ft. from the MRRY requirement; and (b) raise the MRRY requirement from 30% to 50% for lots larger than 5,000 sq.ft.; and

Whereas, the effect of these changes would be to make it easier for homeowners in both the R- and P-districts to obtain approval of MRRY coverage greater than 30%: and

Whereas, although the proposed amendments keep the MRRY coverage limit at 30% in the R-districts, the proposed Special Permit route for coverage between 30% and 60% would avoid the showing of “hardship” needed under the current variance approach and instead permit the BZA to impose development conditions; and

Whereas, County staff has pointed to two “main purposes” for having a limitation on MRRY coverage; and

A. Stormwater

Whereas, one of these acknowledged “main purposes” is to control stormwater runoff, since “it limits the area covered by impervious structures or surfaces in the minimum required yard and thus limits the environmental impacts on adjacent property owners caused by stormwater runoff” (Staff Report, p.1); and

Whereas, during the review of these proposed amendments “the Board as well as some community groups raised concerns regarding the stormwater impact of increasing by-right coverage in conventional R-districts” (Staff report, p.5); and

Whereas, County staff subsequently obtained advice from a stormwater consultant who recommended that the “by-right coverage *not* be increased in the conventional R-districts” since “it would contribute to additional drainage complaints and property damage” (Staff Report, p.5); and

Whereas, for the foregoing reasons, County concluded that it would not recommend a change in the 30% MRRY limitation for R-districts, although it still supports the Special Permit process; and

B. Bulk Impact on Community

Whereas, the other acknowledged “main purpose” for the MRRY coverage limitation is that it “reduces the bulk impact of structures or uses on adjacent properties, thereby mitigating the intensity of visual ‘clutter’ and noise occurring at the closest point to neighboring properties”, and

Whereas, given the increasing size of homes on residential lots in the R-districts, an increase in the MRRY coverage area would increase the “bulk impact” on adjacent properties; and

Whereas, since “accessory uses and structures” include recreational uses (such as swimming pools, patios, children’s play area, and sports courts), an increase in the MRRY coverage area would also increase the likelihood of additional “clutter”, noise, and light pollution “at the closest point to neighboring properties” as well as a loss of privacy; and

Whereas, a related issue in the proposed ZO amendments is the proposal to remove any limitation on the size of “playhouses”, the current ZO limiting their size to 100 sq.ft.; and

C. Other Impacts

Whereas, additional concerns regarding the proposed increase in the MRRY coverage were received by County Planning staff from County’s Urban Forest Management (“UFM”) staff; and

Whereas, UFM staff noted that “[m]ost tree preservation areas are in the rear portion of lots”, so that “increasing the ability to encroach into the [MRRY] could substantially reduce the amount of preserved canopy coverage” and lead to “an increase in requests to deviate from the tree preservation target set out in the Tree Conservation Ordinance” (Staff report, p.6); and **Whereas**, County Staff believes that the proposed Special Permit process would allow for development conditions that would be sufficient for screening and tree conservation objectives’ and

Whereas, the main advantages claimed by County staff for the proposed amendments are that it would allow homeowners “increased flexibility in the use of their minimum required rear yards” and would allow the BZA to set standards and impose development conditions “on a case-by-case basis”; and

Whereas, the proposed ZO amendments also include certain provisions whose objective is to clarify the way in which the MRRY is measured; and

Whereas, in conclusion, the McLean Citizens Association (“MCA”) believes that the concerns that have been raised regarding stormwater, bulk impact on the community, and tree canopy preservation are serious and central to the purpose of placing a limit on MRRY coverage; and

Whereas, in further conclusion, MCA does not believe that these concerns are adequately addressed by the proposed amendments in either the R-districts or P-districts, and is particularly concerned that the proposed “case by case” approach to the Special Permit procedure in the R-districts will lead to an increase in the number of BZA filings, with ad hoc results, and a significant increase in the amount of covered rear yard space, contrary to the intent of ZO section 10-103.

Now, therefore, be it resolved that the proposed ZO amendments are **opposed** by the MCA, with the exception of those amendments relating to clarification of the measurement of minimum required rear yard for purposes of ZO Section 10-103.

Approved by the Board of Directors of the McLean Citizens Association

April 4, 2018

McLean Citizens Association, P.O. Box 273, McLean, VA 22101

Cc: Members of the Fairfax County Planning Commission
John Foust, Dranesville District Supervisor
John Ulfelder, Dranesville Planning Commissioner
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