



August 18, 2005

ADMINISTRATIVE ORDER #000077 081805
INTERPRETATION OF DEVELOPMENT CODE

CODE SECTION: 20.50.040 (I) – Projections into Setback

Question:

Can constructed window wells be located a required setback?

Background:

Window wells are a typical component of dwellings with basements. The building codes require a means of egress from basements. In certain cases “egress windows” accompanied by concrete or similar pre-fabricated retaining walls, that form the window wells, are used to meet this requirement.

Development Code References:

20.20. Definitions
20.50.040 Setbacks – Designation and Measurement

Discussion:

Definitions:

Fence: A barrier for the purpose of enclosing space or separating lots, composed of:

- A. Masonry or concrete walls, excluding retaining walls; or
- B. Wood, metal or concrete posts connected by boards, rails, panels, wire or mesh.

Setback: The distance between the building and any lot line.

Setback Line: That line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be erected or placed.

Setback, Side Yard: A space extending from the front yard to the rear yard measured perpendicular from the side lot line to the minimum yard setback line.

Yard: An open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward except by vegetation and except as may be specifically provided in the Code.

Finding:

The Development Code, in part, defines the side yard setback as a space measured perpendicular from the side lot line to the minimum yard setback line. A yard is an open space “unoccupied and unobstructed from the ground upward”. The Development Code provides for limited projections into the “unoccupied and unobstructed” open space created by the yard (ref. section 20.50.040(I)). By definition, the intent of these Development Code provisions is to limit the mass of the principle structure within the yard setbacks from the ground upward.

By nature a window well is located below ground level or grade and serves as a retaining wall to protect the adjacent window. A window well serving as a retaining wall is not a fence and is not subject to the limitations for fencing.

Conclusion:

Given that setbacks apply to principle structures or projections located above the ground and based on the definitions and the provisions of the Development Code relative to setbacks and yards referenced above, window wells located below ground level that project from the principle structure are excluded from the setback provisions of section 20.50.040.

Original signed by Tim Stewart

August 23, 2005

Director

Date