



Agenda Abstract

JOINT PUBLIC HEARING

Meeting Date: February 20, 2025
Department: Community Services
Agenda Section: 5D
Public hearing: Yes
Date of public hearing: February 20, 2025

PRESENTER/INFORMATION CONTACT

Tom King, Senior Planner: (919) 296-9475; tom.king@hillsboroughnc.gov
Molly Boyle, Planner II: (919) 296-9473; molly.boyle@hillsboroughnc.gov

ITEM TO BE CONSIDERED

Subject: Unified Development Ordinance (UDO) text amendment (citizen/resident initiated):

- Section 9, *Definitions*, Subsection 9.1, *Rules of Measurement, Computations, and Exceptions*, Paragraph 9.1.5, *Setbacks*, Sub-paragraph 9.1.5.2, *Permissible Encroachment into Required Setbacks*

Attachments:

1. UDO Text Amendment application
2. Sub-paragraph 9.1.5.2 with proposed amendment (written by staff)
3. Pool standards from other jurisdictions

Summary:

Currently, there are no clearly stated setback or yard requirements for swimming pools (hereinafter, "pool"). Staff has historically relied upon two definitions found in UDO Subsection 9.2 (Definitions) to establish pool setbacks: "setback" & "structure." These definitions read as follows with applicable language underlined:

"Setback - The minimum distance between a property line or street right of way and structure including any projection thereof but excluding eaves and gutters, not to exceed twenty four (24) inches (see 9.1.5 for further information). Pedestrian or vehicular access ways may be constructed within the required setback line (see Figure 9-2)."

"Structure - Anything constructed, erected, or placed on the land, above or below grade. It includes, but is not limited to: buildings, signs, load bearing walls docks, columns, and pools. Walkways, fences, patios, or one- and two-family driveways are not considered structures."

Based on the definitions, & the fact pool setbacks aren't covered separately elsewhere in the UDO, a pool is required to meet principal structure setbacks/yards for the specific district in which it is to be constructed. A further historic staff interpretation is that the *water area* of the pool must meet the required principal structure setbacks. Associated grade-level patios & decking are regulated by separate setback provisions found in UDO Item 9.1.5.2.b (see Attachment #2).

Staff aren't sure why pools have been regulated in this manner; it may be to alleviate neighbor nuisance situations or safety. However, its application to the various residential zoning districts yields interesting outcomes. For example, a backyard pool in the AR (Agricultural-Residential) district, where the minimum lot area is 40,000 square feet (just under an acre), the water area of a pool could be 30 feet from side & rear property lines. In the R-10 (Residential) district, where the minimum lot area is 10,000 square feet (just under ¼ acre), the water area could be 15 feet to a side, & 20 feet to a rear, property line. Therefore, it would seem a backyard pool in an R-10

neighborhood would be more of a nuisance to neighbors (if that is the reason pools are regulated in this way) than a pool in an AR neighborhood. Safety fencing is required for pools under the state building code.

The applicant for the amendment request received a permit to construct a backyard, in-ground pool last year. Upon its completion, it was found a portion of the water area extends a few feet into the required 30-foot rear yard setback for their AR-zoned lot. This situation has occurred once before in the past several years. In the previous case, the water area extended less than one foot into a R-20, 20-foot rear yard setback. That situation was resolved by a property exchange between neighbors (e.g., adjusting the property line so the setback was met).

Attachment #2 contains proposed language that, if adopted, will resolve the applicant's dilemma & provide setback regulations for future pool projects by allowing pools to be closer to property lines than currently allowed; in essence treating them in a similar manner to accessory buildings.

Comprehensive Sustainability Plan goals:

Town Government & Public Services Goal 2: Adopt local laws, regulations & policies that help to achieve sustainable & equitable outcomes.

- Strategy: Develop & adopt policies that help accomplish town goals.
 - Implementation Action: Regularly review & update town policies as new information is garnered & achievements are met.

Financial impacts: None.

Staff recommendation: Conduct hearing & consider the proposed amendment.

Action requested: Conduct hearing. After the public hearing closes, the Planning Board may make its recommendation or wait until its next meeting on March 20, 2025.

Attachment #1



TOWN OF
HILLSBOROUGH

GENERAL APPLICATION

Amendment to Future Land Use Map, Unified Development Ordinance or Official Zoning Map

Planning and Economic Development Division
101 E. Orange St., PO Box 429, Hillsborough, NC 27278
919-296-9477 | Fax: 919-644-2390
www.hillsboroughnc.gov

This application is for amendments to the Comprehensive Sustainability Plan, Unified Development Ordinance, and/or Official Zoning Map. Incomplete applications will not be accepted or processed.

OFFICIAL USE ONLY		
Case Number:	Fee: \$ 400.00	Receipt No.: 060352
FLUM Designation: Rural Living	Zoning District: AR	Overlay Zone: NA

Amendment Type: <input type="checkbox"/> Future Land Use Map	<input checked="" type="checkbox"/> Unified Development Ordinance Text
<input type="checkbox"/> Zoning Map – General Use or Overlay District	<input type="checkbox"/> Zoning Map – Planned Development District

PROPERTY LOCATION AND DESCRIPTION	
Property Address or Location: 211 South Cameron Street	
PIN(s): 9874-15-5366	Size of Property (Acres/Sq. Ft.): 0.46 acres
Current Use of Property: Single-family dwelling	
Current Zoning Classification(s): AR (Agricultural-Residential)	
Proposed Zoning Classification(s): NA	

CERTIFICATION AND SIGNATURES	
Applications will not be accepted without signature of legal property owner or official agent.	
I certify that the information presented by me in this application and all accompanying documents are true and accurate to the best of my knowledge, information, and belief; and I acknowledge that the processing of this application may require additional town, county and/or state permits, approvals, and associated fees.	
Applicant Name: Michael Reeves	Legal Property Owner Name: Same as applicant
Mailing Address: 211 South Cameron Street	Mailing Address:
City, State, ZIP Code: Hillsborough, NC 27278	City, State, ZIP Code:
Telephone: 208-621-4771	Telephone:
Email: michael-s-reeves@yahoo.com	Email:
Signature:	Signature:
Date: 1-17-2024	Date:

Applicant signed 1-14-2025 - MB

Dear Hillsborough Board of Commissioners and Planning Board:

We have an application before you to consider an amendment to the Town of Hillsborough's Uniform Development Ordinance (UDO) related to how residential swimming pools are treated. Please let us give you some background on our particular situation and our interest in resolving the issue.

We built a pool on our property at 211 S Cameron Street during 2024. It was literally during the last step of our pool construction process (getting the "As Built" survey that is required to pass the final town inspection) that we learned that our pool contractors – Anthony & Sylvan – had built a small section of our pool over our property's setbacks at our pool's northeastern corner.

While the setback violation was not substantial (amounting to approximately 1.5' directionally and approximately 15.4 square feet overall), we acknowledge that we cannot get the Town of Hillsborough's final approval on our pool until this issue is resolved and we receive a final pass from Town Planning.

Investigating the issue on our own, we learned that our pool contractors, Anthony & Sylvan, were operating under a 10' setback assumption when the property's setbacks were in fact 30'. Anthony & Sylvan submitted its application for our pool permit with a 10' setback. The Town of Hillsborough corrected the application, noting 30' setbacks. This issue should have been corrected by the pool company at the time the permit was sent back, well before digging began.

There is no way for us to be certain why Anthony & Sylvan missed this issue as it related to our pool, but we can make inferences. Our project and apparently several others experienced delays due to a personnel situation with our project manager, ultimately leading to his departure during the early stages of our pool build. I also understand that the "permit runner" for Anthony & Sylvan's Triangle office left the company during the time period in question. Our pool and design consultant told us that these issues contributed to the fact that this situation was never brought to his attention. At this same time, Hillsborough's Assistant Town Planner who had worked on our permit left her employment with the Town, likely further contributing to the issue.

In our discussions with Town Planning around how to resolve the issue, we have learned that other lots in Hillsborough (R-20, R-15 and R-10 lots, for example) have shorter rear setbacks (20 feet) and even shorter side yard setbacks of 15 feet in the case of the R-15 and R-10 lots.

We also learned that other nearby municipalities have dramatically reduced setbacks relative to the Town of Hillsborough and often explicitly treat a pool as an "accessory structure" vs part of the principal structure, as is the case in Hillsborough.

We are not trying to make excuses for the mistake our pool contractor made and acknowledge that it is their job to follow the Town's UDO, but could see where they might have made their initial error. In thinking about the best way to resolve the issue, it seems to make sense to bring Hillsborough's UDO in line with nearby, similarly situated municipalities.

Thank you for considering our application at this meeting.



Julie & Michael Reeves | 211 S Cameron St | Hillsborough, NC 27278

Attachment #2

VERSION 1: February 20, 2025 - MARKUP

~~Strikethrough~~ = Existing Language to be Removed

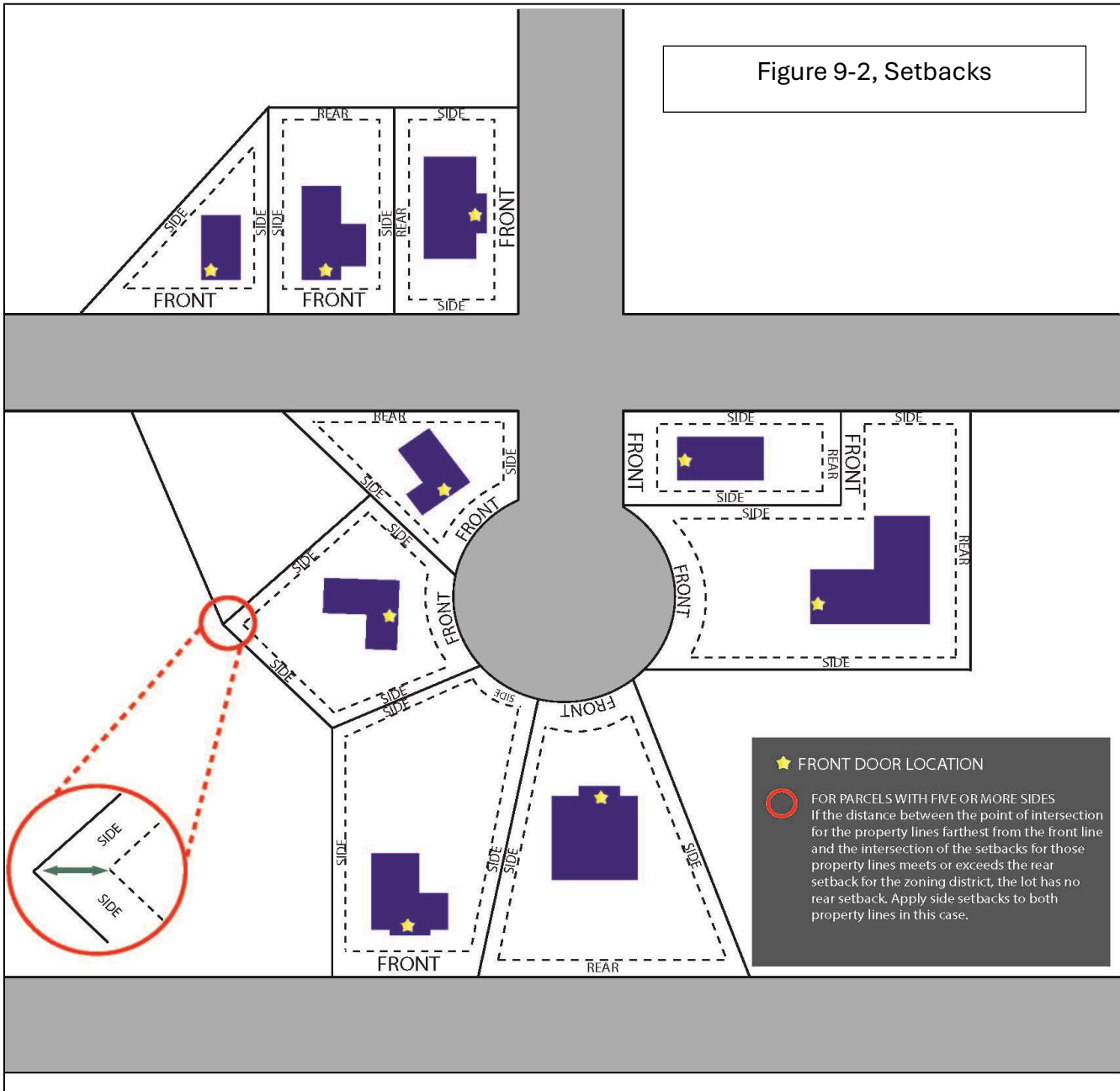
Underlined = Proposed Language

9.1.5.2 Permissible Encroachment into Required Setbacks

- 9.1.5.2.a** One- and two-family driveways, walkways, fences, retaining or decorative walls, ornaments, furniture, and landscape plantings may be permitted in any setback.
- 9.1.5.2.b** Patios may encroach into required setbacks, provided that the minimum patio setback is ten feet from a rear or side property line and provided that the patio surface is not more than 6 inches above the adjacent grade. Covered patios or patios with shade structures must observe the setback established for the district as set forth in Section 6.3, *Dimensional Requirements*.
- 9.1.5.2.c** Accessory buildings and freestanding accessory dwelling units may encroach into a side yard or rear yard setback not adjacent to a street right-of-way to within 5 feet of the property line, with the following limits:
- (a) For an accessory building with a highest point 12' or more above the ground elevation, an additional setback of 2' for each 1' of elevation above 12' is required until the standard setback is met.
 - (b) The setback being reduced is not part of a land use or stream buffer required elsewhere in this Ordinance, nor a recorded easement for utilities, drainage, or access.
- 9.1.5.2.d** Parking lots and parking spaces are not allowed within setbacks.
- 9.1.5.2.e** Residential mechanical equipment, including but not limited to generators and HVAC units or components, are not required to observe minimum setbacks. These installations for non-residential and multi-family uses are required to observe minimum setbacks, regardless of the zoning district.
- 9.1.5.2.f** For setback provisions that apply to nonconforming lots of record, see Section 7.5, Nonconforming Lots of Record.

- 9.1.5.2.g** Steps, risers and ramps without a roof, awning or similar covering extending from residential structures may encroach in required setbacks, provided that a minimum setback of no less than 10 feet remains along any property line shared with another residential property (not street right of way). Required landings between two runs of risers or ramps may also encroach provided the landing is also without a roof, awning or similar cover. In the case where an existing structure does not observe a 10-foot setback from a property line shared with another residential property or street right of way at the time of application, the maximum possible setback shall be preserved while allowing necessary access to an existing structure.
- 9.1.5.2.h** Projections and cantilevers from residential structures, including but not limited to eaves, overhangs, gutters, bow windows, chimneys, that do not exceed 24" of projection and do not have contact with the ground. Projections in excess of 24" and those that have contact with the ground must meet the applicable setbacks, unless otherwise addressed in this section.
- 9.1.5.2.i Outdoor, residential, in-and above-ground swimming pools, hot tubs and spas, including all decking, patios and appurtenant equipment, may be located in side or rear yards not adjacent to a street and no closer than five feet to any property line.

Figure 9-2, Setbacks



Attachment #3

Swimming Pool Regulations - Other Area Jurisdictions

Town of Chapel Hill

LUMO Sect. 3.8.3 (Exceptions to Setback and Height Regulations)

- (a) The following features shall not be subject to the required minimum setbacks provided the town manager determines that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:

- (5) Patios, decks and swimming pools not exceeding three (3) feet in height, provided they are not constructed closer than five (5) feet from the property line of the zoning lot. Protective railings, as required by building code, may be added to the decking height;

Town of Carrboro

No reference made to swimming pools.

City of Mebane

UDO Section 4-2 (Density and Dimensional Requirements)

B. Accessory Uses, Buildings and Structures

The following requirements are for customary accessory buildings and structures. Other accessory buildings and structures containing specific accessory uses may have additional development requirements found in Section 4-7, Development Standards for Individual Uses.

1. Setback and Location Requirements

- (c) All other accessory structures shall be located in rear yards and shall be no closer than 10 feet to rear or side yard lines except that permanent swimming pools must comply with the principal building rear and side yard setbacks for the zoning district in which located.

Orange County

UDO Section 5.5.1 (Accessory Structures and Uses)

(A) Standards of Evaluation

- (1) Accessory structures and uses, including recreational uses and amenities, shall not be located in any required front open space and shall conform to the principal setbacks of the district where located unless otherwise provided in this Section.

Article 10 (Definitions)

Accessory Use: An activity that may or may not be listed in the Permitted Use Table, which is conducted in conjunction with a permitted principal use, but constitutes only an incidental or insubstantial part of the total activity that takes place on the lot and is customary and ancillary to the established principal use of property. Accessory uses shall comply with all setback requirements for the district in which the use is located. For example, an in-ground swimming pool is required to meet all applicable setbacks including any required fencing around the physical pool, the concrete walkway around the pool, and any pump or utilities associated with the operation of the facility.

City/County of Durham

Section 5.4.9 (Swimming Pools)

When allowed, in-ground and above-ground swimming pools that have a water depth over 24 inches and have a surface area of at least 100 square feet shall be subject to the following additional requirements:

A. Private Pools

Private swimming pools (as well as the decking and equipment associated with the pool) located on any residential lots with the exception of those described in paragraph B below, shall not be located between the street and the principal structure unless located to the rear of the primary structure, and shall not be closer than five feet to any property line.

Town of Pittsboro

Section 12.11.4 (Allowable Encroachments into Required Yards)

16. Swimming pool: May be located in any required minimum side or rear yard”

City of Burlington

Section 4.5 (Accessory Uses)

F. Specific Standards for Selected Accessory Uses

26. Swimming Pool/Hot Tub

- a. Swimming pools and hot tubs shall be configured in accordance with all applicable requirements of the North Carolina State Building Code.
- b. In-ground swimming pools built as accessory uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet and configured to prevent small children from gaining unsupervised access to the pool.
- c. Hot tubs shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet or include a cover with a lockable latch to prevent small children from gaining unsupervised access to the hot tub.
- d. Gates or doors opening into the area around the in-ground or above-ground swimming pool or hot tub from outside the dwelling shall have self-closing and self-latching devices for keeping the gate or door closed at all times when not in use.
- e. Above ground swimming pools are not required to have a fence but shall have a locking ladder that prevents access to the surface of the water when raised or otherwise locked.
- f. These standards shall apply to any built structure placed or constructed for the purpose of bathing or swimming with a depth of two feet or more.
- g. Access to a pool or hot tub serving a non-residential use shall limit access to the pool or hot tub by members of the general public.
- h. Swimming pools and hot tubs included as an accessory use to a single-family subdivision shall include one off-street parking space for every four persons of design capacity.

City of Roxboro

Section 7 (Swimming Pools, Commercial/Community and Private)

All public, commercial, or private outdoor swimming pools of three feet or more in depth, either above ground or below ground, and of either permanent or temporary construction shall meet the following requirements in addition to setbacks and other requirements specified elsewhere:

- 7.10.1. The setback for an above ground swimming pool from any lot line equals the required setback for accessory structures in the district in which it is located plus one foot for each foot over five of pool height.
- 7.10.2. A fence be erected to a minimum height of four feet to completely enclose all sides of the pool not bounded by a building. A self-latching gate of equal height shall be installed and securely fastened when the pool is not in use.
- 7.10.3. Contractor must have construction fence/silt fence surrounding an in-ground pool area (construction site) while under construction.
- 7.10.4. Mechanical equipment may encroach up to five (5) feet into a side or rear yard setback, must be screened from view, and must not be located in a street yard.