



**City of Ketchum
Planning & Building**

MEMORANDUM

TO: Ketchum Planning and Zoning Commission

FROM: Abby Rivin, Senior Planner

MEETING DATE: December 14, 2021

RE: Zoning Code Interpretation 21-004: Permitted Structure in Setbacks

SUMMARY:

On November 9, 2021, the Planning and Zoning Commission reviewed a Design Review Permit P21-096 for 119 Sage Road to permit underground features to be located in the required setback. In order to issue a building permit for the proposed residence, the project must comply with the Zoning Ordinance. There were two outstanding compliance issues presented for the Planning and Zoning Commission's consideration. The first was the building foundation/structure encroaching into the front yard setback. Subject to Design Review approval, subterranean encroachments may be approved by the Planning and Zoning Commission. The second issue was the placement of an above-grade wall with a structural foundation and permanent stairs within the front setback area. The Commission was asked to consider the Design Review application for the subterranean encroachments and separately make a determination if the above-grade wall and stairs are considered permanent, structural elements that may not be located in the setback, or if the wall and stairs are nonpermanent, landscape features that can be removed in the future and that may be located in the required setback.

Staff has incorporated the Commission's feedback into the draft zoning code interpretation attached as Exhibit A.

STAFF RECOMMENDATION:

Staff recommends the Planning and Zoning Commission consider the attached interpretation, direct Staff to incorporate any revisions, and move to approve the zoning code interpretation for outdoor amenities within setback areas.

Recommended Motion: "I move to approve the zoning code interpretation allowing for certain outdoor amenities within setback areas."

EXHIBIT:

Draft Zoning Code Interpretation 21-004



**City of Ketchum
Planning & Building**

**KETCHUM PLANNING AND ZONING COMMISSION
ZONING CODE INTERPRETATION 21-004
PERMITTED STRUCTURES IN SETBACKS**

INTERPRETATION QUESTION

The application of the Zoning Ordinance has been inconsistent for underground footings and above grade walls attached to a structure when placed in required setbacks. This interpretation clarifies the application of the setback requirements for underground structural footings and above grade walls attached to the building or structure. In addition, the interpretation clarifies the question whether permanent stairs are permitted to be placed in required setbacks.

PERTINENT ZONING REGULATIONS

Below Grade Footings

Below-grade structures may encroach into required setbacks subject to the standards specified in Ketchum Municipal Code §17.128.020.K.

- K. Encroachments of below grade structures into required setbacks are permitted provided all of the following standards are met:*
- 1. Proposed encroachments shall receive design review approval from the Planning and Zoning Commission; and*
 - 2. Below grade encroachments into the riparian setback are not permitted; and*
 - 3. Construction activity shall not occur on adjacent properties; and*
 - 4. Encroachment of below grade structures into required setbacks shall not conflict with any applicable easements, existing underground structures, sensitive ecological areas, soil stability, drainage, other sections of this Code or other regulating codes such as adopted International Code Council Codes, or other site features concerning health, safety, and welfare; and*
 - 5. Egress openings required by adopted International Code Council Codes shall not encroach in required setbacks; and*
 - 6. Below grade encroachments into required setbacks shall be located entirely below natural, existing, or finished grade, whichever is lowest; and*
 - 7. The ground above below grade encroachments within required setbacks that is not otherwise covered by permitted decks, fences, hedges and walls shall be suitably landscaped in keeping with the general character of the surrounding neighborhood or as otherwise required by this Code.*
 - a. Required landscape plans shall address the compatibility of proposed landscaping with the below grade structure, including any necessary irrigation; and*
 - 8. Below grade encroachments into required setbacks shall not interfere with drainage.*

- a. *Required drainage plans shall address the ability of drainage to be managed on the subject property with respect to underground encroachments into required setbacks.*

Planning and Zoning Commission Interpretation for below grade footings

The Commission finds that below-grade building footings and foundations may encroach into required setbacks so long as these structural elements are entirely underground.

Walls Attached to a Structure and stairs in the setback

Ketchum Municipal Code §17.08.020 defines setback as the minimum horizontal distance between a specified lot line (front, side, rear), measured along a straight line and at a right angle to such lot line, and the nearest point of an above-grade or below-grade building or structure. Structures include anything permanently constructed in or on the ground (KMC §17.08.020). The only elements not qualified as structures are fences less than 6 feet in height, decks less than 30 inches above grade, paved areas, and structural or nonstructural fill (KMC §17.08.020). Ketchum Municipal Code §17.08.020 defines the term building as any permanent structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind, which is permanently affixed to the land and has one or more floor and a roof. Additionally, the definition of building states that any appendage to said structure, such as decks, roof overhangs, and porte-cocheres, are part of said building for the purposes of determining building coverage, setbacks, or other regulations unless otherwise specified.

Planning and Zoning Commission Interpretation for walls attached to a structure and stairs in setbacks

The Commission finds that a wall attached to a structure may be considered a non-permanent landscape feature like a fence so long as the wall is not a structural element. These non-permanent walls must be able to be removed without compromising the structural integrity of the principal building or other accessory structures on the project site. Non-permanent walls may be sited within the required setback areas so long as the walls meet the maximum height standards specified in Ketchum Municipal Code §17.124.130. Permanent, structural walls must be sited within required setback areas.

The Commission finds that the same setback standards provided for decks may be applied to stairs located in required setbacks. Ketchum Municipal Code §17.128.020.H allows decks less than 30 inches from existing grade to be constructed to the property line. The Commission finds that stairs less than 30 inches in height above existing grade may be located within required setback areas. Ketchum Municipal Code §17.128.020.I requires decks more than 30 inches in height from existing grade at any point shall be subject to setbacks. The Commission finds that stairs greater than 30 inches in height from existing grade at any point shall be subject to setbacks. The Commission finds that the height measurement should include not only the stair risers and treads but also any appurtenance to stairs such as any required handrails (Ketchum Municipal Code §17.128.020.H).

Zoning Code Interpretation adopted this 14th day of December 2021.

Neil Morrow, Chair
City of Ketchum
Planning and Zoning Commission