

Concerns with respect to residential zoning code and required "yards"

I. How the code defines "yard":

Rollingwood's zoning code for residential "setbacks" uses the term "yard" to define the required front, side and rear setbacks for residential lots rather than the term "setback".

"Yard" is defined in Section 107-3 as follows:

"'Yard' means an unoccupied space on a lot which:

(1)Is open and unobstructed from the ground upward to the sky *except for fencing, walls, or permitted projections, such as cornices, eaves, porches or landscaping;*

(2)Extends between a main building and the lines of the lot upon which the main building is located; and

(3)Has a depth between the front, side or rear lot lines and the main building as required for the district in which the lot is located".

2. Current issues:

The italicized exception in clause (1), "except for fencing, walls, or permitted projections, such as cornices, eaves, porches or landscaping", poses two issues:

(1)The terms of the ordinance are subject to interpretation on the question whether any particular projecting structure is or is not a "fence", "wall", "cornice", "eave", "porch" or "landscaping", or "permitted projection" within the scope of the exception

(Note: Although an upper level roof that projects into the "yard" *does not* seem to fit within the permitted exceptions as the listed exceptions relate to outermost parts of a roof ("eave", "cornice"), and not the roof itself, as such exceptions would not be necessary if the "roof" itself were an exception.)

(2)The ordinance language places no limit on how far an excepted structure can extend into the "yard". Ordinances of other Texas cities either preclude a projection into a "yard" or setback or contain absolute limits for how far a "projection" may extend into the "yard" or "setback". See examples below.

Discussion Question: These two issues raise the question whether the Rollingwood ordinances should be amended to clarify the "permitted projections" and to incorporate express limits on these exceptions.

Example Ordinances from various other Texas Cities

Westlake Hills, Texas:

Sec. 22.03.276 Setbacks for accessory structures

The minimum setback distances for accessory structures, other than unroofed steps, ramps, fences, walks, driveways, driveway gates, playscapes, and mailboxes, shall be the same as the setback distances applicable to a principal building under the appropriate category in [section 22.03.281](#). Accessory structures, including overhangs and eaves, shall not encroach into setbacks. Propane tanks shall not be required to meet the setback requirements of this section so long as they are permitted and placed in accordance with the Liquefied Petroleum Gas Safety Rules adopted by the Railroad Commission of Texas in title 16, part 1, chapter 9, of the Texas Administrative Code, including any and all future amendments thereto. (Ordinance 2020-005 adopted 5/13/20)

Note: Section 22.03.281 sets setbacks based on lot size:

≥.5 acres: front/side/rear = 50/30/25

Less than .5 acre: front/side/rear=30/25/20

City of Lakeway, Texas

Sec. 24.02.241 Position of structures on lot

(a) Encroachments. Structures, including overhangs, may not encroach into any setback, public utility easement, or drainage easement. Exceptions:

- (1) Retaining walls;
- (2) Fences;
- (3) Signs.

Richardson, Texas:

(e) Front setback.

(1) There shall be a front setback having a minimum depth of 30 feet. Unenclosed porches, fireplaces, and other architectural appendages may project into the required front setback for a distance not to exceed five feet.

(f) Side setback.

(1) There shall be a side setback on each side of the lot as provided in this section without projections or appendages except as allowed herein, except the side setback on a corner lot adjacent to a side street shall not be less than 20 feet. The minimum required side setback is:

a. Where lots are created or combined so that the resulting lot is less than 80 feet in width, the minimum side setback shall be seven feet.

b. Where lots are created or combined so that the resulting lot is 80 feet or more, but less than 120 feet in width, the minimum side setback shall be ten feet.

c. Where lots are created or combined so that the resulting lot is 120 feet or more in width, the minimum side setback shall be 15 feet.

d. The reconstruction of a single-family dwelling on an existing, platted lot of record may utilize the side setback established for the previous dwelling on that lot. However, in no instance shall the side setback be less than seven feet in width, nor less than the side setback of the previous dwelling.

(2) The ordinary projections of a roof eave or cornice may extend into the required side setback a maximum of two feet. A fireplace, windowsill, box or bay window, or other architectural features not more than ten feet in width may extend into the required side setback a maximum of two feet.

(g) Rear setback. There shall be a rear setback having a depth of not less than 25 feet, except:

(1) The ordinary projections of a roof eave or cornice may extend into the required rear setback a maximum of two feet. A fireplace, windowsill, box or bay window, and other architectural features not more than ten feet in width may extend into the required rear setback a maximum of two feet.

Texas City, Texas:

160.086 PROJECTIONS INTO REQUIRED YARDS.

Certain architectural features, fences, walls and hedges may project into, or be located in, required yards as follows:

(A) Cornices, eaves and sills not more than two feet into any required yard;

(B) Balconies, bay windows and chimneys not more than three feet into front yards, or two feet into side and rear yards;

(C) Patios and open decks may be located in side yards and rear yards; provided that, they are not closer than three feet to any adjacent property line. In the case of a corner lot, patios or decks shall be subject to the regular street side yard requirements of the district;

(D) Upon approval of the Building Official, open sided carports may be located in front yards (or, in the case of a corner lot, in the side yard); provided that, not closer than five feet to any front property line they are, and do not exceed the eave height of the existing dwelling;

Rockwall, Texas:

SUBSECTION 01.07: PROJECTIONS INTO REQUIRED YARD OR COURT (A) Every part of a required yard within a building setback shall be unobstructed and open from its lowest point to the sky, except for the ordinary projections of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves; provided, however, that none of the above projections shall extend into a court more than six (6) inches nor into a required yard by more than 30-inches; and provided existing open porches extending into the required yard shall not be enclosed.