

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

§165-62 PURPOSE

This Section specifies zoning provisions which are general to all developments and establishes the basis for identifying, continuing and eliminating non-conforming uses, structures and site improvements. Also, in certain cases, usually as a result of the age or use of a property or building, it may not be possible to apply current zoning requirements. For this reason, special provisions and modifications outlined in this Section are provided and may be used if applicable and necessary to modify existing conditions.

§165-63 LOT AREA REQUIREMENTS

The following general area requirements shall apply to all development.

A. Street Frontage Required

1. Single family detached dwellings shall abut for at least forty (40) feet on a street as defined in Section 14 of the Town of Bel Air Development Regulations, except as permitted in Section 165-118.D.(17) (Panhandle Lots) of this Ordinance. Lot width is measured at the front building line.
2. Each unit in an attached dwellings project shall abut for a minimum of eighteen (18) feet on open space, courts or a group parking area. Adequate access shall be provided for servicing, fire protection and off street parking. Adequacy shall be determined by the Planning Commission.
3. All lots in the "B" or "M" districts shall abut for at least thirty (30) feet on a street as herein defined.
4. Street frontage standards shall apply except as permitted in Section 12 of this Article.

B. Required Yards - General

1. Required yard Cannot Be Reduced. No lot shall be subdivided in such a manner that it would result in creation of a lot that does not meet minimum size or provide for minimum setback requirements required by this Article. If a lot is already less than the minimum required, it shall not be further reduced. Parcels set aside during the site plan or subdivision process to satisfy parking, open space or similar requirements of the Town of Bel Air Development Regulations, shall be maintained for the stated purpose and

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

shall not be included as part of parking, a yard, open space or a similar requirement for another use or building.

2. Off-street parking and loading areas may occupy all or part of any required yard or open space provided location, setback, parking, loading, landscaping and buffering regulations required by this Article are not violated.
3. Division and/or combination of existing lots requires Planning Commission approval. Such division and/or combination shall not be permitted if the proposed division and/or combination would create any lots which do not comply with the requirements of the Town of Bel Air Development Regulations.

C. Yard Requirements By Type

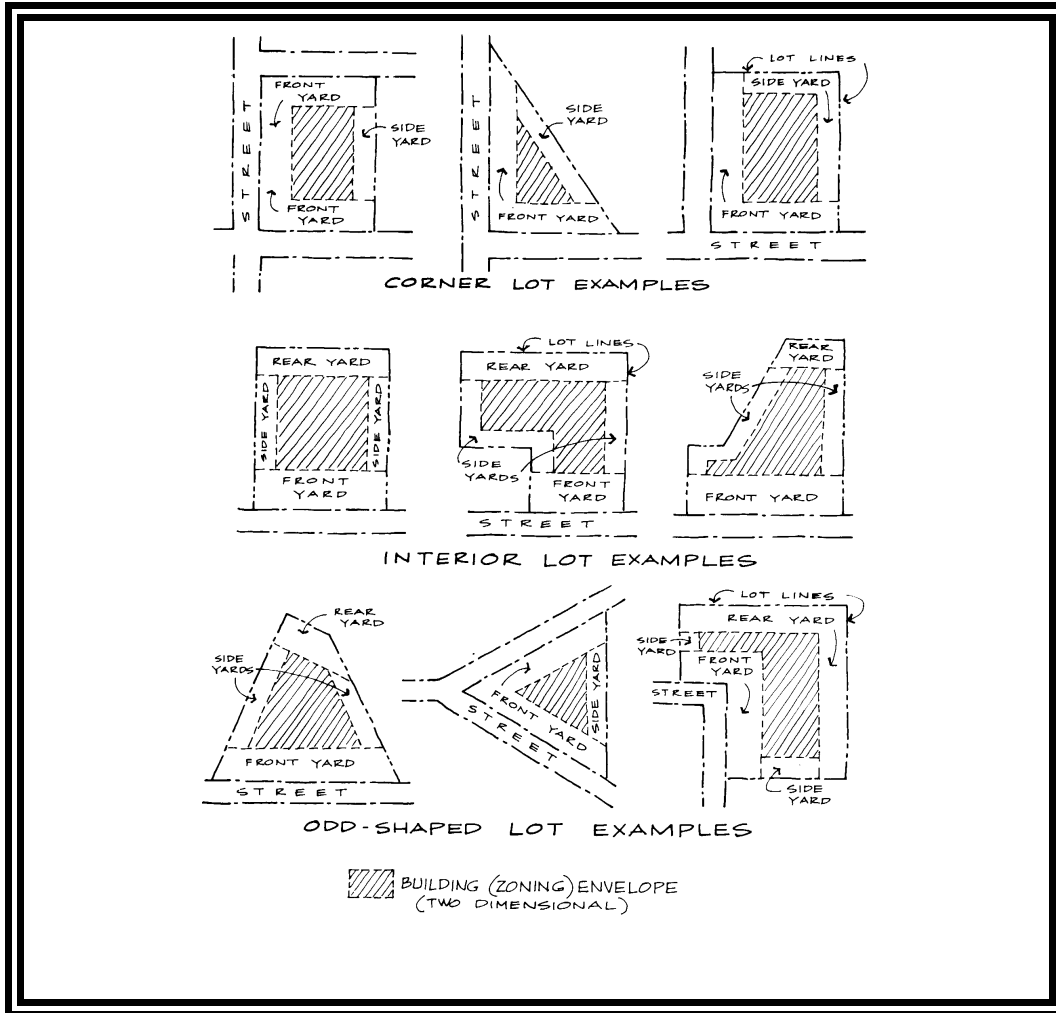
1. Front Yard Requirements

Front yard depth shall be measured from the required rights-of-way line, as specified in Chapter 165, Article IV of the Town of Bel Air Development Regulations, except in instances where modification or supplementation of these lines by any officially adopted street or highway widening or location plan, or record plat has occurred, in which case the latter shall control.

- a. On corner lots, all yards of a lot that abut a street must comply with the applicable front yard setback.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications



- b. Front yard setback requirements for single family attached and multi-family common entrance and separate entrance units, which are situated within one hundred (100) feet of the lot line of a single family detached residence or vacant residential lot shall be setback fifty (50) feet from the lot line. Vehicle access should not exceed twenty-five percent (25%) of the front yard width and in no case may exceed thirty (30) feet. Parking may be provided within the setback area if adequately screened.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

2. Rear And Side Yard Calculations

- a. Where the rear or side yard opens on an alley or common area, one-half (1/2) of the alley or common area, not to exceed twenty (20) feet, may be included as a portion of the rear or side yard as the case may be.
- b. Side yard width may be varied where the side wall of a building is not parallel or is broken or otherwise irregular with the side lot line. In such case the mean average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half (1/2) the otherwise required least width. Decks, bay windows or similar architectural features shall not be included in the calculation allowance.
- c. Side yard setback requirements for single family attached and multi-family common entrance and separate entrance units within one hundred (100) feet of the lot line of a single family detached residence or vacant residential lot shall be fifty (50) feet and shall include a landscaped buffer or six (6) foot high privacy fence along the side and rear yard lot lines, as applicable. No vehicle access may penetrate the buffer.
- d. Development of multi lot deeded parcels shall meet setback requirements of this Article through consolidation of such lots through the subdivision process.

Additions to existing residential structures, which cross existing interior lot lines, shall require cross lot consolidation or recordation of easement agreements to satisfy setback requirements.

- e. Rear yard setback requirements for single family attached and multi-family common entrance and separate entrance units within one hundred (100) feet of the lot line of single family residence or vacant residential lot shall be seventy-five (75) feet and shall include a landscaped buffer or six (6) foot high privacy fence along the lot line. Should vehicle access penetrate the buffer, it shall not exceed twenty-five percent (25%) of the rear yard width or thirty (30) feet, whichever is greater. Parking may be provided within the setback

Article II
Chapter 165. Zoning

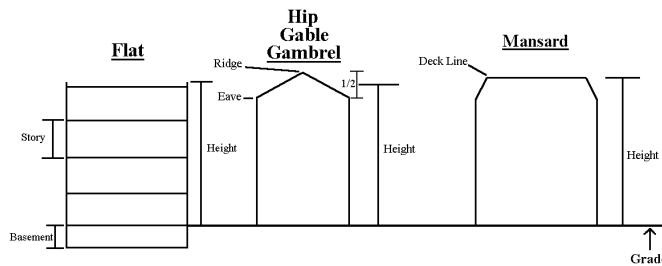
Section 9: Special Provisions and Modifications

area if adequately screened.

D. Height Requirements

1. Height Measurement

Building height shall be measured from the average point of grade to the highest point of the roof for flat roofs; and to the deck line for mansard roofs; and to the average height between the eaves and the ridge for gable, hip and gambrel roofs.



2. Stories

The ground story or first story of any building is considered the lowest story, the floor of which is not more than three and one-half (3-1/2) feet below the average contact of the adjoining ground level at the exterior walls of the building.

3. Height Bulk Transition Requirements

To reduce the apparent bulk of buildings forty (40) feet or more in height a distinct base shall be provided at ground level using articulation and materials such as stone, masonry or decorative concrete. The top of the building should be treated with a distinct outline with elements such as a projecting parapet, cornice or projection.

A height transition or step down is required adjacent to residential development.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

§165-64 SPECIAL PROVISIONS

- A. Use Of Existing Lots Of Record. In any district where dwellings are permitted, single family dwellings may be constructed on any undeveloped lot or plot of official record, which does not meet minimum district lot size or width, as of the date the Town of Bel Air Development Regulations is adopted, subject to the following requirements:
1. The sum of the side yard widths of any such lot or plot shall be a minimum of thirty percent (30%) of the width of the lot, but in no case shall any one side yard be less than ten percent (10%) of the width of the lot.
 2. The depth of the rear yard of any such lot shall be a minimum of twenty percent (20%) of the depth of the lot, but in no case shall it be less than ten (10) feet.
 3. Adequate street frontage shall be available as stated in Section 9, Subsection 165-63.A of this Article.
 4. Division and/or combination of existing lots shall not be permitted if the proposed division and/or combination would create any lots which do not comply with the requirements of the Town of Bel Air Development Regulations.
- B. Front Yard Modifications
1. In any Residential District, the required depth of the front yard may be modified. This may occur if at least two front yards are less than that required for the district on lots which are on the same frontage as the property in question and within two hundred fifty (250) feet of the property in question.

In such case, the depth shall not be less than the minimum depth of any existing front yard having the same frontage. However, the depth of a front yard on any lot shall be at least ten (10) feet.
 2. Front yard setback requirements for single family attached units may be modified to a minimum front yard depth of twenty-five (25) feet if the units within a building block are designed with an off-set.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

3. Decks, Balconies, Porches and Canopies. Decks, balconies, unenclosed porches and canopies may project into the front yard a distance of twenty-five percent (25%) of the minimum required setback for the District or the established front yard setback for the subdivision or neighborhood, as applicable. Canopies/awnings must maintain an eight (8) foot clearance above the sidewalk.
 4. Filling station pumps and pump islands, with or without canopies, (or with canopies not attached to a main building), may occupy the required yards, provided, however, that pumps, pump islands and canopies shall not be less than fifteen (15) feet from rights-of-way lines.
- C. Side And Rear Yard Modifications
1. Decks, balconies, porches and canopies. Decks, balconies, unenclosed porches and canopies may project into the side and/or rear yard a distance of twenty-five percent (25%) of the minimum setback for the property.
- D. Other Exceptions To Yard Requirements. The following architectural features may project into required yards as hereinafter set forth:
1. Cornices, eaves or other architectural features may project a distance not exceeding two (2) feet, six (6) inches.
 2. Fire escapes may project a distance not exceeding four (4) feet, six (6) inches.
 3. Necessary landings may project a distance not to exceed six (6) feet provided that such landing shall not extend above the entrance floor of the building except for a railing not to exceed three (3) feet in height.
 4. Uncovered stairs, as necessary, to access the primary and fire safety related entrances to a unit.
 5. Baywindows and chimneys may project a distance not to exceed three (3) feet; provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the wall on which they are located.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

E. Height Modifications

The building height limitations of this Article shall not apply to the following:

1. Accessory roof structures designed to house stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, provided that objectionable views of such equipment are completely screened from all adjacent properties.
2. Fire or parapet walls, towers, steeples, flag poles, silos, smoke stacks, masts, water tanks, monuments or other accessory structures that project into the air.
3. Places of public assembly in churches, schools, libraries, hospitals and other permitted public and semi-public buildings, provided that for each three (3) feet by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the district.
4. Bulkheads, cupolas, elevator equipment enclosures, water tanks, equipment containment screens and structures, and clearstory window structures and skylights, provided that no linear dimension of any such structure exceeds twenty percent (20%) of the corresponding linear dimension of the building.
5. Towers and monuments, fire towers, hose towers, cooling towers, grain elevators, gas holding tanks or other structures used in municipal or manufacturing uses where such use requires a greater height, provided that all parts of such structures above the heights otherwise permitted in the district shall not occupy more than twenty-five percent (25%) of the area of the lot and shall be at least fifty (50) feet from every lot line that is not a street rights-of-way line.
6. Public utility buildings, provided that for each three (3) feet of the height of such building that exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width and depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in that district.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

§165-65 TRAFFIC VISIBILITY

- A. Except in instances where traffic visibility is not impacted due to one way traffic patterns, no sign, fence, wall, hedge, planting, structure, unit or other temporary or permanent obstruction to vision, extending to a height in excess of three (3) feet above the established street grade, shall be erected, planted, placed or maintained within the sight triangle of an intersection.

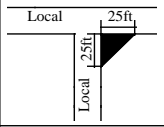
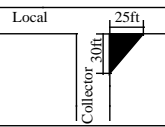
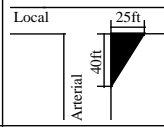
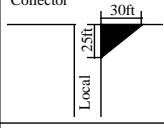
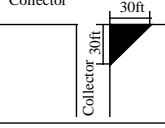
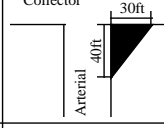
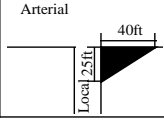
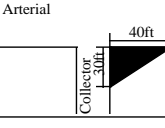
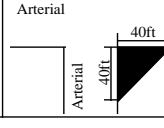
NON OBSTRUCTION AREA REQUIREMENTS BY
STREET CLASSIFICATION
(MEASURED ALONG R.O.W.)

"A" (Distance In Feet) Required Setback		Local Street	Collector Street	Arterial Street
25	Local Street	25	30	40
30	Collector Street	25	30	40
40	Arterial Street	25	30	40

Where an intersection is formed with a state road, state sight distance criteria shall also be applied.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

	Local	Collector	Arterial
Local			
Collector			
Arterial			

- B. Poles, posts and guys for street lights and other utility services shall not be considered obstructions to vision within the meaning of this section.
- C. The Planning Commission shall have the authority to require additional setback requirements at intersections where the configuration of the specific intersection creates sight distance limitations.

§165-66 NON-CONFORMING USES, BUILDINGS OR STRUCTURES

If prior to the adoption of the Town of Bel Air Development Regulations, a property was being used for a then lawful purpose that the Town of Bel Air Development Regulations prohibit and render non-conforming, the property owner shall have a vested right to continue the non-conforming use. However, it is the purpose of the Town of Bel Air Development Regulations to secure the gradual or eventual elimination of non-conforming uses. To further this goal, no expansion or change of a non-conforming use shall be permitted unless authorized by the Board of Appeals as provided for herein and in Section 12 of this Article.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

A. Continuance, Extension, Enlargement and Abandonment

1. Any building or structure which is lawfully existing under the terms of the Town of Bel Air Development Regulations at the time of its enactment, or at the time of any amendment thereto, may be used as provided by the Regulations even though the building or structure does not conform with the size, setback, parking, loading, landscaping or Performance Standards of the Town of Bel Air Development Regulations, or any amendment thereto, for the Zoning District or Overlay District in which the building or structure is located.
2. In the event a non-conforming use ceases for a period of one (1) year or more, the non-conforming use shall be deemed abandoned and future use of the property shall comply with the requirements of the Town of Bel Air Development Regulations. The casual, temporary or illegal use of land or a structure does not establish the existence of a non-conforming use.
3. Nothing herein contained shall require any alteration in the building or structure, or part thereof, for which final approval of its plans, construction, size or use have been granted prior to the enactment of the Town of Bel Air Development Regulations or any amendment thereto.

Notwithstanding the above, in the event a building permit has not been issued for a building or structure, the previously granted final approvals of the use, building or structure shall continue to be valid for the period originally granted.

4. Alterations of any building that reduces the total square footage of the nonconformity may be permitted by right. If fifty (50) percent or more of the square footage of an existing non-conforming building is demolished, any new construction shall be performed in conformance with the standards specified in the Town of Bel Air Development Regulations for the Zoning District in which this building is located.
5. No existing building or structure devoted to a non-conforming use, in the district where it is located, shall be enlarged, extended, reconstructed, substituted or structurally altered unless authorized by the Board of Appeals.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

6. In the case of an extension or enlargement, the following shall apply:

The Board of Appeals may authorize the extension or enlargement of the non-conformity of a building or structure, with or without conditions, provided that:

- a. The enlargement or extension does not exceed thirty-five percent (35%) of the gross square footage in use at the time of the creation of the nonconformity;
- b. The enlargement or extension does not violate the height or coverage regulations for the district;
- c. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.

B. Replacement of Damaged Buildings And Structures

- 1. Any nonresidential non-conforming building or structure, or group or assemblage of buildings constructed as a total entity under common ownership, by less than fifty (50) percent of the fair market value may be restored or reconstructed to its former dimensions on the same lot with the same non-conforming use provided that the restoration or reconstruction is completed within two (2) years of the date of the damage.
- 2. Any residential non-conforming building or structure that is damaged or destroyed may be reconstructed to its former dimensions on the same lot and with the same non-conforming use provided that the reconstruction is completed within two (2) years of the date of the damage.

Article II
Chapter 165. Zoning

Section 9: Special Provisions and Modifications

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