

Tarra Jolly

Subject: ADU setbacks

From: Chris Murphy

Sent: Monday, November 15, 2021 4:57 PM

To: Julie Magness <julie.l.magness@gmail.com>

Cc: Aaron King <aaronk@cityofws.org>; Desmond Corley <desmondc@cityofws.org>; Carolyn A. Highsmith <carolyn_highsmith@outlook.com>; Melynda Dunigan <melynda.dunigan@gmail.com>; George Bryan <georgembryan@gmail.com>; Kathy Pounds <poundskathy74@gmail.com>; Leslie Kamtman <kamtman.les@gmail.com>

Subject: Re: [EXTERNAL] ADU setbacks

Julie - all of these situations and eventualities have nothing to do with the ADU regulations under consideration. In other words, it is a civil issue - driveway encroachments, cartage rights, inverse condemnation, adverse possession - they are all constructs of law and are thus handled in civil court. No ordinance ever written can or should get to that granular of a level. These situations can be viewed under the lens of any change on a parcel - not just an ADU.

Chris Murphy, AICP/CZO
Acting Director of Planning and Development Services
100 E. First Street
Winston-Salem NC 27101
336-747-7049 (O)
336-462-7473 (M)
Chrism@cityofws.org

On Nov 15, 2021, at 4:02 PM, Julie Magness <julie.l.magness@gmail.com> wrote:

I understand that driveways and fences do not have anything to do with setbacks. However, they might come into play where there is shared property use.

Another question down those lines would be shared driveways.

If two houses have a shared driveway, would one of the property owners be allowed to put in an ADU, resulting in possible doubling up of use of the driveway by the two home property? And what about construction vehicles that would need to access a back yard with no other easy way to do so? Concrete is not cheap.

When one property owner is out of town, and no notice to adjacent property owners is required, there might be no recourse to potential problems that have been verbal agreements.

One size does not fit all. UDO-C-11 puts the burden on unsuspecting, and possibly out of town property owners.

Some of these questions have come from friends, neighbors, and family. But many are my own.

Julie

On Mon, Nov 15, 2021 at 12:21 PM Chris Murphy <chrism@cityofws.org> wrote:

Julie:

We do not require a surveyed site plan for any permits in our office as a standard practice – but it must be a scaled drawing. When inspections are conducted in the field, the property line is identified and setbacks are checked for new construction. For conversions of existing structures, the building code will dictate the treatment on the wall closest to the property lines and if within a certain distance, penetrations will be limited and fire ratings must be met.

Fences don't equate to property lines – some may view it that way – but that is not the property line. Driveways, fence posts, etc., do not equate to the property corners/lines. At the end of the day, it is up to the property owner to submit information that demonstrates compliance with the UDO and the building code, including showing their property lines/property corners. Sometimes surveys may be necessary to verify but that is not the common standard.

To answer the question related to your garage – yes, it could be an ADU if the ordinance is passed. Based on the setbacks, the walls closest to the property line would have to be fire-rated and there couldn't be any penetrations.

Chris

Chris Murphy, AICP/CZO

Acting Director of Planning and Development Services

Winston-Salem/Forsyth County

100 East First Street, Suite 337

Winston-Salem, NC 27101

Office: 336-747-7049

Mobile: 336-462-7473

Fax: 336-727-2792

Email: chrism@cityofws.org

From: Julie Magness <julie.l.magness@gmail.com>
Sent: Monday, November 15, 2021 12:08 PM
To: Chris Murphy <chrism@cityofws.org>; Aaron King <aaronk@cityofws.org>; Desmond Corley <desmondc@cityofws.org>; Carolyn A. Highsmith <carolyn_highsmith@outlook.com>; Melynda Dunigan <melynda.dunigan@gmail.com>; George Bryan <georgembryan@gmail.com>; Kathy Pounds <poundskathy74@gmail.com>; Leslie Kamtman <kamtman.les@gmail.com>
Subject: [EXTERNAL] ADU setbacks

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I continue to have questions about setbacks, particularly in older urban band neighborhoods.

1. Will the setbacks of existing structures be survey checked.
2. Will property lines that seem to be designated by existing fences be survey checked?

I have heard proponents mention both the ADU's will most likely be on larger lots than the average in Ardmore, and that there are many in West Salem eager to take advantage of the proposed amendment as written.

In Ardmore, fences, driveways, and structures routinely are out of compliance setback requirements.

I have already given one example of how my property does not meet setback requirements. My dwelling has a 7' setback at the front corner, but only a 6' and inches for the back corner set back. I obtained a SUP to extend my screen porch along the line of the house so it would be structurally and visually better to put this addition on. I got approval from my neighbor before I started the process. I was replacing a deck that was built in compliance with the setbacks.

However, I have five other property line issues. Three are fence irregularities, one is a driveway irregularity, and the other is a garage setback irregularity. This is just my one 0.2 acre lot, and I have a large garage that might have the potential to be an ADU. None are on the deed. The house next door to me was just purchased with no survey. She has no clue about the three irregularities on her side.

Would I be allowed to turn my garage into an ADU, or would it be a hard no, or would I be able to get special use for it because it is already existing.

My garage only has a 33 inch set back at the front corner and a 30 inch at the back corner, so short of the three foot requirement. But it has been here for perhaps 70 years? (Built by the original owner of the home, Fred Church, to accommodate the bank company car he was given.) The home adjacent on that side was built 10 years prior to mine.

My driveway is on that side. About a foot of length extends in a pie shape about 6-8 inches over the property line. The side yard fence post was exactly on the property line when I purchased the home. It was installed by the owners of my property, but helps the adjacent property have a fenced back yard. I was granted verbal permission to remove the post and tie onto the gate post of the adjacent property in order to give me a few more inches to get out of my very narrow driveway. (I have repaired the back corner of my house multiple times due to work vehicles needing access for repairs. The extra few inches has, 25 years later, has, so far, prevented that from happening.) However, about 8 feet of my fence now veres over the line. It is a cooperation fence. I don't need ti at all. I could simply put 33 inches of fence at my garage corner and have a fenced yard. My neighbor needs it for their yard.

My fence line actually creates a fenced back yard for 4 neighbors. The back line goes back and forth no more than 6 inches in multiple places. A prior owner who was a lawyer indicated that I should fix that. I told him that I would take the fence down so that he could build one in complete compliance. He quickly changed his mind. At one back corner, the property owner requested to tie onto my fence post when he replaced cattle wire with chain link. Trees that grew up on a juncture of property lines made it impossible for him to replace, and actually caused the need to replace. Another verbal agreement that is an irregularity.

Would I be allowed to turn my existing garage into an ADU?

I could walk you around just my block and point out multiple places that have irregularities far greater than mine as per set backs of existing structures, or where the property line actually sits vs where it appears to sit.

Who is going to be accountable for confirming those?

How will they impact the set back requirements when they have been existing for years?

Thank you.

Julie Magness

630 Fenimore Street