

MEMORANDUM

To: CPD Development Services Staff
BOA Staff

From: Matthew Seubert for Tina Axelrad, Zoning Administrator

Date: April 30, 2018

Re: **Denver Zoning Code Clarification — Detached Accessory Dwelling Units and Side Setback Requirements**

Detached Accessory Dwelling Units and Side Setback Requirements

Article 5.3.4.5.C (and similar provisions in Articles 4 and 6) of the Denver Zoning Code (“DZC”), siting standards for setbacks for the Detached Accessory Dwelling Unit (DADU) Building Form, requires that:

‘If exceeding 17’ in height must be located adjoining the southern-most side setback line’

This requirement does not specifically state what part of the DADU building must adjoin the setback. Accordingly, this code clarification answers the following question: **What part of the DADU building form must be located adjoining the southern-most setback line?**

- Is it any part of the ADU structure, including projections and/or unenclosed porches? For example, would an unenclosed porch (or an eave) that adjoins the southern-most setback line comply with the standard? If yes, that could mean an unenclosed porch (or eave) will adjoin the southern-most setback line, but the DADU building façade¹ is located some distance to the north of that same line.
- Alternately, is it the DADU building façade that must be located at the southern-most setback line? If yes, then an unenclosed porch or an overhanging eave could encroach into that southern-most setback area only if expressly allowed by the Code (see, for example, permitted setback exceptions/encroachments in DZC, Section 5.3.7.4).

The intent of this setback requirement is to preserve backyard privacy and access to sunlight for the property located north of the subject (i.e., placing the DADU building – allowed to be ½ story taller than a detached garage – closest to the southern-most setback line means less shadow will cross the northern zone lot line into the neighbor’s backyard). Consistent with this intent, most of the DADU building mass and height should be located as far south as possible. This memo clarifies that the part of the DADU building referred to in the standard is the façade of the building (i.e., the exterior wall of the DADU building that encloses interior space). In this case, the requirement then functions similarly to a build-to requirement. Accordingly: **Some portion of the façade of the DADU building must be located adjoining the southern-most side setback line.**

Note that because the current standard does not specify a minimum amount of the building that must be located at the southern-most setback line, compliance with the standard can be

¹ “Façade” is defined in the Denver Zoning Code as “Any exterior wall surface located at the ground level of a building that encloses the interior of the building.”

achieved with a minimal amount of façade touching the southern-most setback line. This “gap” in the standard should be addressed in a future text amendment.

Example #1: Side Street Setback

Ms. Mora wishes to build a DADU building with an unenclosed porch in a U-SU-B1 district. She has designed the DADU building so that the unenclosed porch, but not the façade of the DADU building, adjoins the southern-most side street setback line. Does this design comply with the setback requirements of this Code?

Answer: No. The **façade** of the DADU building must adjoin the southern-most side street setback line, not the unenclosed porch. She must redesign the project so that at least some portion of the DADU building façade adjoins the southern-most side setback line. The unenclosed porch (or eaves or other projections) may encroach into the side street setback area only if allowed by Code. In this example, the unenclosed porch may encroach up to 5 feet into the required side street setback area, provided that a minimum of 1 foot remains between the right-of-way and the first riser of any above-grade stairway attached to the porch (DZC, Section 5.3.7.4).

Example #2: Side Interior Setback

Mr. Gibson has designed a DADU building with an unenclosed porch in a U-SU-B1 district. He has designed the DADU building so that the unenclosed porch adjoins the southern-most side interior setback line, but not the façade of the DADU building. Does this design comply with the setback requirements of this Code?

Answer: No. The **façade** of the DADU building must adjoin the southern-most side interior setback line, not the unenclosed porch. He must redesign the project so that at least some portion of the DADU building façade adjoins the southern-most side setback line. In this case, the proposed unenclosed porch would not be allowed to encroach into the side interior setback area as the Code expressly prohibits it (DZC, Section 5.3.7.4). Mr. Gibson might be better served by moving the unenclosed porch feature to a different façade of the DADU building.

If you have any questions, please ask your supervisor or Zoning Administration staff.