Zone Lot Amendments

Section 12.4.4

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Zone Lot Amendments

12.4.4.3 & 4 – Vacations of Public-Rights-of-Way

12.4.4.3 Exceptions for Zone Lot Amendments by the Zoning Administrator

A. See Section 1.2.2.2, Zone Lot for Existing Structures and Uses, for limited exceptions where a ~~z~~Zone ~~l~~Lot may be determined by the Zoning Administrator or automatically amended without resort to this Section's ~~z~~Zone ~~l~~Lot amendment review procedures.

B. In the case of adding or removing land through either (1) a judgment or settlement ending a lawsuit or (2) acceptance of right-of-way dedication, vacations of right-of-way, land acquisition, or condemnation, the Zoning Administrator may amend the boundaries of the ~~z~~Zone ~~l~~Lot(s) at issue in the government act without an owner-initiated ~~z~~Zone ~~l~~Lot amendment under this Section 12.4.4., even if the legal status of the resulting ~~z~~Zone ~~l~~Lot(s), or structures thereon, changes (e.g., an existing structure's legal status changes from conforming to compliant or nonconforming).

12.4.4.4 ~~No Exception for Zone Lots Affected by Public Right-of-Way Vacation~~

~~When an approved vacation of public right-of-way abuts the boundary of a previously determined zone lot, the owner(s) of said zone lot shall amend the zone lot according to this Section 12.4.4 to include some or all of the abutting vacated right-of-way to proceed with development under this Code as a conforming zone lot. In such cases, a zone lot amendment is required to ensure, prior to development, that the affected zone lot meets the requirement for all zone lots to have frontage on a named or numbered public street, according to Section 1.2.3.1, Public Street Frontage Required.~~

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This revision allows the zoning administrator to automatically amend a zone lot when a right-of-way is vacated. The addition to 12.4.4.3 and the deletion of 12.4.4.4 make it possible for CPD to amend the zone lot boundaries without an owner-initiated application.

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Section 12.4.4.6 Review Criteria

12.4.4.6 Review Criteria

The Zoning Administrator may approve an application for ~~z~~Zone ~~l~~Lot amendment only if the application meets the following review criteria:

A. All owners of the ~~z~~Zone ~~l~~Lot have indicated in writing their agreement to the amendment.

B. A ~~z~~Zone ~~l~~Lot amendment shall not result in the creation of a new nonconforming or compliant ~~z~~Zone ~~l~~Lot, structure or land use~~.~~, except in the following situation:

1. In a Zone Lot amendment application to divide an existing Zone Lot into two or more new Zone Lots, creation of a new nonconforming or compliant structure is allowed when it results from noncompliance with a maximum height in feet or stories, or a bulk plane standard, where the height or bulk plane condition pre-existed the Zone Lot amendment and remains unchanged after the Zone Lot amendment.

For example: An existing single-unit dwelling structure sits on one Zone Lot today and is a Conforming Structure as to building height, given the Zone Lot width of the original Zone Lot (e.g., a 35' tall urban house on a 100' wide Zone Lot in a U-SU-C zone district). No modifications, alterations, or expansions are proposed for the existing structure, but a Zone Lot amendment is proposed to divide the subject single Zone Lot into two new Zone Lots. In all respects, the Zone Lot amendment complies with this Code except that the proposed Zone Lot amendment, and reduction in Zone Lot width for the new Zone Lots, will cause the existing structure to become a compliant structure because the structure does not meet the maximum building height for the resulting Zone Lot that has a reduced Zone Lot width (e.g., standard changes to a max of 30' height when the Zone Lot width is reduced to 50'). Assuming no other violations are created by the Zone Lot amendment, the Zone Lot amendment may be approved without pursuing zoning relief per this review criteria. After the Zone Lot amendment is approved, the previously conforming existing structure will become a Compliant Structure as to height in feet, as "Compliant Structure" is defined in this Code.

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- The change to 12.4.4.6, creates a new exception to the review criteria to allow staff to approve certain zone lot amendments when the existing zone lot is divided/split (not combined), and an existing structure falls out of full compliance with height in feet or stories or a bulk plane standard. This occurs when the base plane elevation changes enough to throw an existing structure out of compliance with a height standard because of a change in the location of the side interior zone lot lines.
- B on this page addresses creation of a NEW nonconforming or compliant zone lot, structure, or land use. It provides this new exception only for creation of a new nonconforming STRUCTURES.
- This section gives an example of an existing compliant structure in terms of building height based on the width of the original zone lot. In our example, it's a 35' tall urban house on a 100' wide zone lot in a U-SU-C zone district. A zone lot amendment is proposed to split the single zone lot into two. In all respects, the zone lot will comply with the code except that the standard for the smaller zone lot width changes the height maximum to 30' from 35', thereby creating a new compliant structure where there was not one before.
- This new exception provides an avenue to approve the ZLAM without having to put the applicant through an AA or variance.

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Section 12.4.4.6 Review Criteria

C. A ~~z~~Zone ~~l~~Lot amendment shall not increase an existing nonconforming or compliant structure's degree of nonconformity with this Code's standards ~~(e.g., a zone lot amendment that would further decrease an existing compliant side interior setback is not allowed).~~, except in the following situation:

1. In a Zone Lot amendment application to divide an existing Zone Lot into two or more new Zone Lots, an increase in an existing nonconforming or compliant structure's degree of nonconformity is allowed when it results from an increase in the degree or extent of violation with a maximum height in feet or stories standard or a bulk plane standard, where the height or bulk plane violation pre-existed the Zone Lot amendment and remains unchanged after the Zone Lot amendment.

For example: An existing single-unit dwelling structure sits on one Zone Lot today and is a Compliant Structure as to building height, given the Zone Lot width of the original Zone Lot (e.g., a 40' tall urban house on a 100' wide Zone Lot in a U-SU-C zone district where 35' is the maximum height allowed). No modifications, alterations, or expansions are proposed for the existing structure, but a Zone Lot amendment is proposed to divide the subject single Zone Lot into two new Zone Lots. In all respects, the Zone Lot amendment complies with this Code except that the proposed Zone Lot amendment, and reduction in Zone Lot width for the new Zone Lots, will cause the existing structure to exceed the maximum height by more than what pre-existed (e.g., standard changes to a max of 30' height when the Zone Lot width is reduced to 50', increasing the pre-existing height nonconformity by 5 feet). Assuming no other violations are created by the Zone Lot amendment, the Zone Lot amendment may be approved without pursuing zoning relief per this review criteria. After the zone lot amendment is approved, the previously compliant existing structure will remain a Compliant Structure as to height in feet, as "Compliant Structure" is defined in this Code.

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- C follows the same logic, but relates to an existing nonconforming or compliant structure's degree of nonconformity. This exception, again, only applies to height and bulk plane standards.
- It gives this example where an existing single-unit dwelling structure sits on one zone lot today and is compliant as to building height. This could be, for example, a 40' tall urban house on a 100' wide zone lot where 35' is the maximum height. A split of this zone lot will cause the existing structure to exceed the maximum height by more than what preceded the amendment; for example, the standard changes to a maximum of 30' from 35', which means it increases the nonconformity by 5'. If no other violations are created by the ZLAM, the amendment can be approved without an AA or a variance due to this new exception.
- BOTH of these exceptions are available for zone lot splits and not combinations. Why limit it in that way? We wanted to avoid incentivizing combinations of zone lots where applicants are buying single-unit dwellings then combining zone lots and knocking down one of the dwellings, which then reduces the amount of available housing in a neighborhood. Combinations are still possible – we just are not providing an outlet to create new nonconformities or compliant elements for them.

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Section 12.4.4.6 Review Criteria

E. Zoning Relief from Compliance with Zone Lot Amendment Review Criteria Available

1. An applicant may request zoning relief in the form of an administrative adjustment or variance, as applicable, from the application of the review criteria for Zone Lot amendments stated in this Section 12.4.4.5.

2. In all cases for zoning relief, the Zoning Administrator shall determine the applicability of the administrative adjustment process based on whether an administrative adjustment to the specific zoning standard violation that prevents approval under the Zone Lot amendment review criteria is within the authority granted in Section 12.4.5 of this Code.

For example: A Zone Lot amendment application is denied because a proposed combination of two Zone Lots results in the creation of a side interior setback violation for an existing Urban House building form, which is not allowed under the Zone Lot amendment review criteria stated in Section 12.4.4.5.B. If the 25% extent of administrative adjustment allowed for a side interior setback standard in Section 12.4.5 would resolve the violation of the Zone Lot amendment review criteria, then the applicable zoning relief procedure would be the administrative adjustment procedure rather than the variance procedure.

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- This addition clarifies that zoning relief is available for zone lot amendments and further explains that the threshold for an administrative adjustment helps to determine which zoning relief procedure is applicable.

Zone Lot Amendments

Section 12.4.5.5 (Administrative Adjustment) Effect of Approval – Expiration

D. Administrative adjustments approved under Section 12.4.5.3.D.1., Adjustments Authorized Prior to Application Submittal~~for Pre-Development Requests~~, shall expire 180 days after the approval date unless ~~either (1)~~ the applicant submits a complete application for a Site Development Plan, zoning permit, or zone lot amendment necessary to execute the approved administrative adjustment.~~including the approved administrative adjustment is submitted; or (2) an application for a Zoning Permit including the approved administrative adjustment is submitted.~~ A failure to obtain an approved Site Development Plan, zoning permit, or zone lot amendment shall automatically extinguish the administrative adjustment by operation of law.

Section 12.4.5.5 (Administrative Adjustment) Effect of Approval – Expiration

B. Variances Unrelated to Construction - Effect of Approval and Expiration

1. ~~For v~~Variances unrelated to construction~~;~~ shall expire 180 days after the approval date unless the applicant submits a complete application for a Site Development Plan, zoning permit, or zone lot amendment necessary to execute the approved variance.~~;~~ Failure to obtain an approved Site Development Plan, zoning permit, or zone lot amendment shall automatically extinguish the variance by operation of law.

2. For all other variances unrelated to construction, the variance shall run with the land unless the Board of Adjustment specifies otherwise as a condition of the approved variance.

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- These additions to both the expiration sections for both the administration and variance sections clarify that the AA or variance shall expire 180 days after the approval date unless the applicant has submitted a complete application for a zone lot amendment, in the case of zone lot amendments. Previously, the AA section only listed a complete application for an SDP, which leaves out quite a few types of pre-development applications that we might receive.
- The variance section restates the same expiration standard and clarifies that all other variances run with the land.

Zone Lot Amendments

Sec. 12.4.7.3 Applicability and Limitations (Variance section)

12.4.7.3 Applicability and Limitations

A. Applicability

The Board of Adjustment may approve variances to all of the following, unless expressly prohibited or limited by this Section 12.4.7.3:

1. Aall Zone Lot, Building Form, and Development standards found in Articles 1 through 10 of this Code, unless otherwise stated that a variance is not allowed;
2. ~~and to~~ All use limitations found in Article 11 of this Code, unless otherwise stated that a variance is not allowed; and
3. The following provisions in Article 12 of this Code;~~, unless expressly prohibited or limited by this Section 12.4.7.3~~.
   a. The development standards applicable to development of a Carriage Lot stated in Section 12.10.4, Development on Carriage Lots, but not including the zoning permit review procedures and conditions stated in Section 12.10.4.5; and
   b. Wherever else in Article 12 the Board of Adjustment is expressly authorized to grant variances.

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The addition of item 3 in the applicability section gives the Board the authority to grant variances to procedures in Article 12.
In the case of Zone Lot Amendments, the explicit description in 12.4.4.5.E that says that zoning relief is available for ZLAMs gives the Board that express authority described in 3.B here.