

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

In The Court of Common Pleas

Hon. Marvin H. Dukes, Circuit Court Judge

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JAN 29 2020

COURT OF APPEALS

Case Number 2018-CP-07-784

Appellate Case Number 2019-314

BRADLEY CIRCLE VACATION PARTNERS, LLC, and MONTI DEVELOPMENT, LLC,

Appellants,

v.

THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BOARD OF ZONING
APPEALS, TAMARA BECKER and RHONDA CARPER,

Respondents.

APPENDIX TO RECORD ON APPEAL
RULE 212(b), SCACR

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TALE OF CONTENTS

IV. OTHER MATERIALS

§ 16-5-102(C), *Municipal Code of The Town of Hilton Head Island, South Carolina, 1983*,1

§ 16-5-103(D), *Municipal Code of The Town of Hilton Head Island, South Carolina, 1983*, 2

- d. For zero **lot** line **subdivisions**, adjacent street and use setback standards shall apply only along those **lot** lines and **street rights-of-way** constituting the perimeter of the **subdivision**.

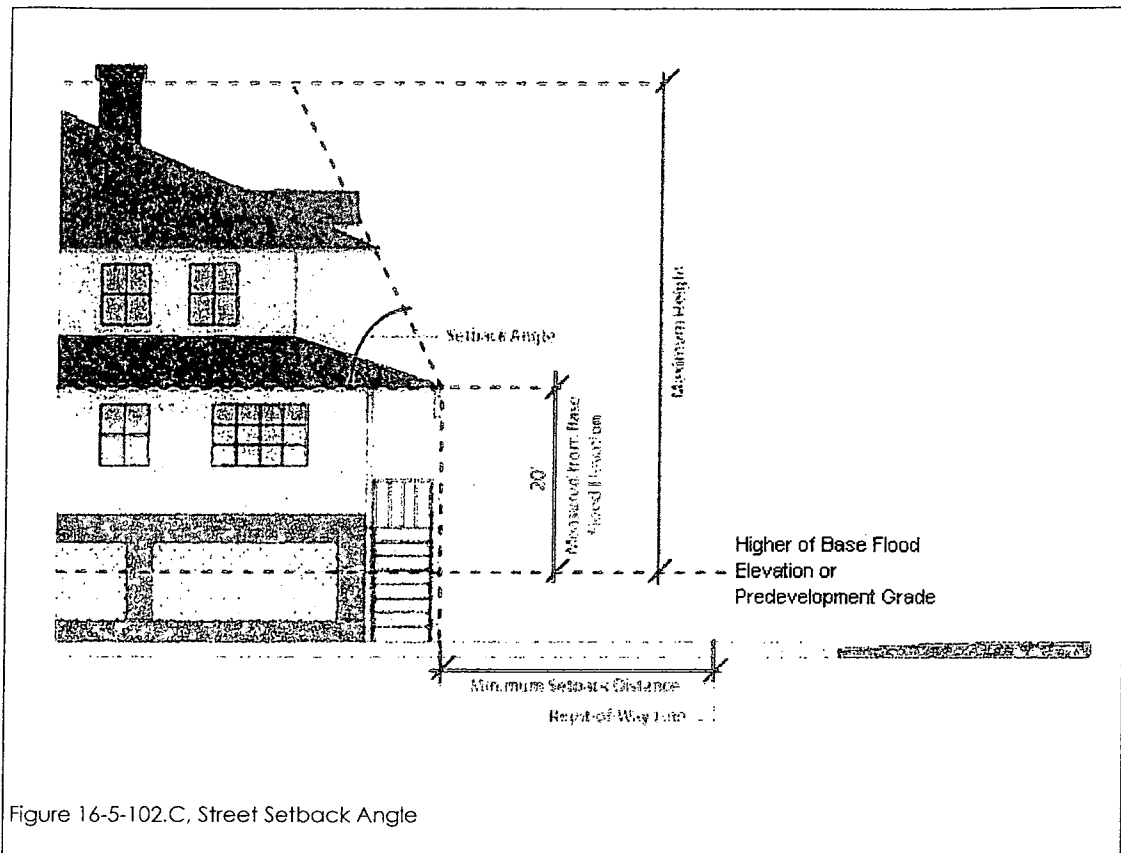
C. Adjacent Street Setback Requirements

Unless expressly exempted or modified in this subsection or for the CR, S, and IL Districts in Chapter 16-3: Zoning Districts, all portions of a **structure** shall be located to the interior of the vertical and angled planes established by the applicable minimum setback distance from an adjacent street and maximum setback angle shown in Table 16-5-102.C, Adjacent Street Setback Requirements, based on the proposed **use** and the classification of the **adjacent street**. (See Figure 16-5-102.C, Street Setback Angle.)

TABLE 16-5-102.C: ADJACENT STREET SETBACK REQUIREMENTS				
PROPOSED USE		MINIMUM SETBACK DISTANCE ¹ / MAXIMUM SETBACK ANGLE ²		
		ADJACENT STREET (BY CLASSIFICATION)		
		MAJOR ARTERIAL	MINOR ARTERIAL	ALL OTHER STREETS
Single-Family	Structure > 24 in high	50 ft ^{3,4} /75°	40 ft ^{3,4} /70°	20 ft ^{3,4} /60°
	Structure ≤ 24 in high	50 ft ^{3,4} /n/a	30 ft ^{3,4} /n/a	10 ft ^{3,4} /n/a
All Other Uses ⁵		50 ft ^{3,4} /75°	40 ft ^{3,4} /70°	20 ft ^{3,4} /60°

NOTES: in = inches ft = feet ° = degrees

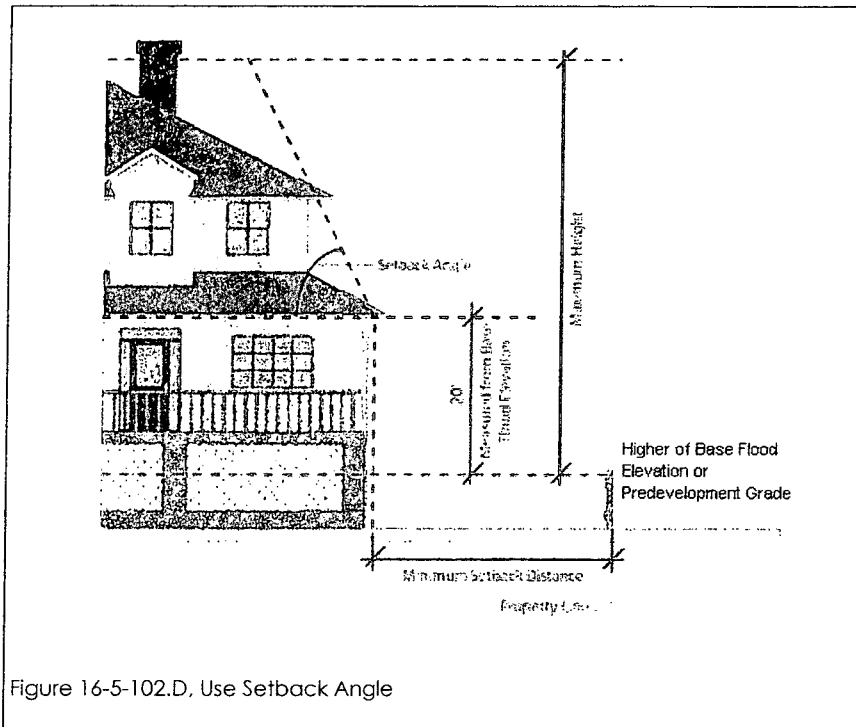
1. Measured from the **adjacent street right-of-way** or **easement** line to the closest portion of a **structure**. A street setback from an easement line is not required for non-single-family properties.
2. Measured within the upper inward quadrant of the intersection of a horizontal plane at a **height** of 20 feet above the **base flood elevation** or **pre-development grade**, whichever is higher, and a vertical plane extending upward at the minimum setback distance (see Figure 16-5-102.C, Street Setback Angle).
3. For **corner lots**, reduced to 10 feet from the **right-of-way** of the **street** with the lowest average daily vehicle traffic count (ADT). If both **streets** have equal ADT, the **lot** owner may choose which **street** shall be subject to the reduced setback distance.
4. May be reduced by up to 30 percent in the S District, 20 percent in the RD and IL Districts, and 15 percent in all other districts, on demonstration to the **Official** that:
 - a. The reduction is consistent with the character of **development** on surrounding **land**;
 - b. **Development** resulting from the reduction is consistent with the purpose and intent of the adjacent setback standards;
 - c. The reduction either (1) is required to compensate for some unusual aspect of the site or the proposed **development**, or (2) results in improved site conditions for a **development** with **nonconforming site features** (e.g., allows the extension of a wall or fence that screens an existing **outdoor storage** area);
 - d. The reduction will not pose a danger to the public health or safety;
 - e. Any adverse impacts directly attributable to the reduction are mitigated (e.g., the closer proximity of **buildings** to a **street** are mitigated by a wider or more densely screened adjacent street buffer along that **street**);
 - f. The reduction, when combined with all previous reductions allowed under this provision, does not result in a cumulative reduction greater than a 30 percent in the S District, 20 percent in the RD and IL Districts, or 15 percent in all other districts; and
 - g. In the S, RD, and IL districts, there are no reasonable options to the reduction that allow **development** of the site to be designed and located in a way that complies with LMO standards.



(Revised 12-5-2017 - Ordinance 2017-19)

D. Adjacent Use Setback Requirements

1. Unless expressly exempted or modified in this subsection or for the CR and S Districts in Chapter 16-3: Zoning Districts, all portions of a **structure** shall be located to the interior of the vertical and angled planes established by the applicable minimum setback distance from **adjacent** properties and maximum setback angle shown in Table 16-5-102.D, Adjacent Use Setback Requirements, based on the proposed **use** and the existing **use** of the **adjacent** property (or zoning of a vacant **adjacent** property). (See Figure 16-5-102.D, Use Setback Angle.)



2. Where the **adjacent** property includes **uses** from more than one listed **use** classification/**use** type (including **mixed-use** developments), the adjacent **use** setback required shall be that for the **use** classification/**use** type to which the greatest percentage of the **development's gross floor area** is devoted.
3. The adjacent use setback distance applicable to **lots** along the perimeter of **development** subject to Small Residential Development Review may be reduced by up to 50 percent, down to no less than five feet. The **Official** may allow further reduction as necessary to ensure that the total area within such perimeter setbacks does not exceed 20 percent of the total area of the site of the Small Residential Development.
4. The **Official** may waive the requirement for an adjacent use setback for non-single-family properties on determining that the proposed **development** and the **adjacent development** function as a single **development**. The criteria to determine if the properties will function as a single development may include the recording of a cross-access easement agreement between the two properties.

(Revised 12-5-2017 - Ordinance 2017-19)

E. Allowable Setback Encroachments

Table 16-5-102.E, Allowable Setback Encroachments, identifies features that are allowed to encroach beyond the vertical and angled planes defined by minimum adjacent street and use setback requirements.

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CERTIFICATE OF COUNSEL
RULE 210(g), SCACR

The undersigned certifies that the Appendix complies with Rule 210(g), SCACR,
and the August 30, 2007, Order of the South Carolina Supreme Court relating to
personal data identifiers.

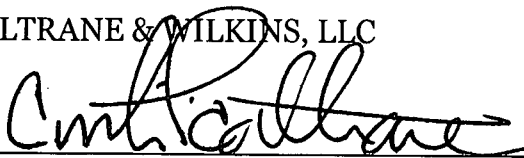
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Appeals

This 28th Day of January, 2020

Hilton Head Island, South Carolina