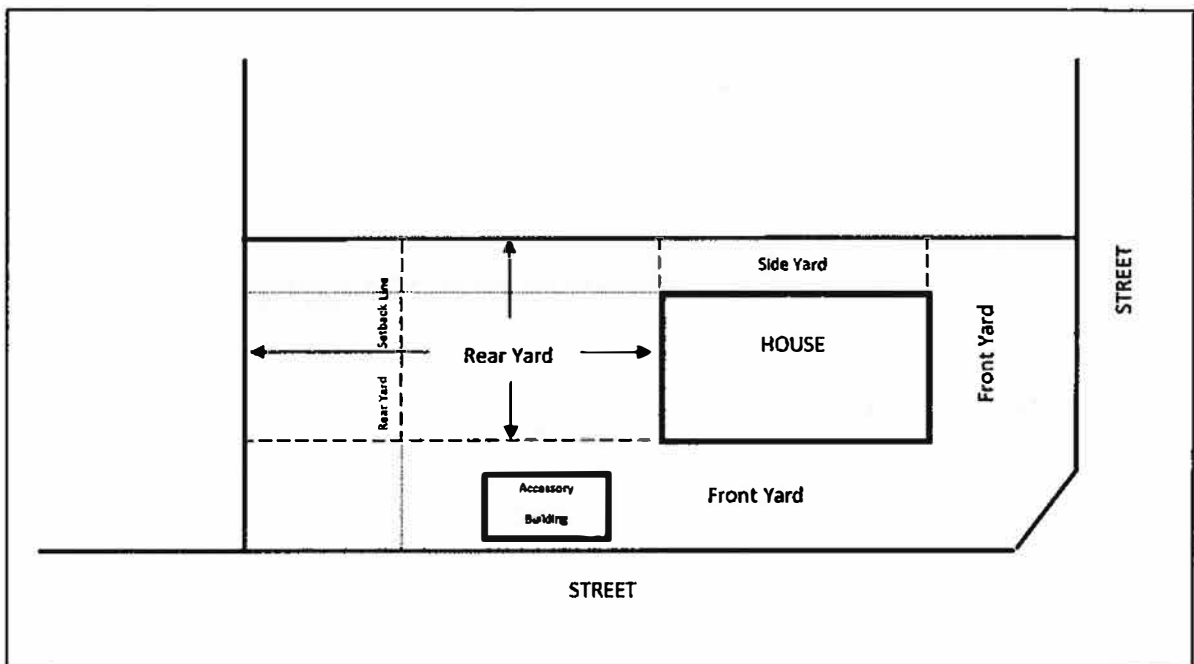


SUBJECT: Nonconforming Accessory Structure on Corner Lot
Date: March 7, 2012

This interpretation involves the identification of the various setback lines and the location of the main building where a nonconforming accessory building exists on the lot. The lot in question is in the R-90 Zone, but the discussion applies to any similar situation in one of the Single Unit Detached Residential zones.

For a corner lot, there are two front yards, since a front yard is defined (Sec. 25.03.02) as the "open space extending across the full width of lot between the front lot line or the proposed front street line and nearest line of the building or any enclosed portion thereof...For a corner lot in a residential zone defined by two (2) street lines connected by a third line having a length of less than 50 feet (commonly known as a "truncation"), the front yard must be measured from the front lot line, not from the truncation line."

In this case, the house is located near the minimum front yard setback required in the zone along both street lines. In addition, there is an accessory building located very near the street line along one side of the lot. This accessory building predates the application of the zone to the lot. See the diagram below.



There needs to be a clarification of the relationship between the front yard and the rear yard in this situation. A rear yard is defined as "the open space extending across the full width of the lot between the rear line of the lot and

nearest line of the building, porch, or projections thereof." Further, a rear lot line is defined as "the lot line generally opposite or parallel to the front lot line, except in a through lot."

In the case of corner lots, the rear yard area is deemed to be that portion of the lot opposite a street line that can comply with the rear yard setback requirements of the zone. That portion of the lot opposite a street line that complies with the minimum side yard setback is deemed a side yard.

The issue to be addressed is which yard area takes precedence based on the definitions. In the example above, you clearly have a front yard along one street that directly abuts the rear yard area. A rear yard is defined as extending across the full width of the lot between the rear line of the lot and nearest line of the building, porch, or projections thereof. This is true for a conventional lot. In the case of a corner lot, however, extending the rear yard across the full width conflicts with the defined front yard area between the street and the main building. Further, accessory buildings are only permitted in a rear yard. By way of priority, the character of the front yard ranks first. The only encroachments allowed into the front yard are porches, bay windows and minor architectural elements (cornices, eaves, belt courses, etc.) of the main building.

In the diagram, the accessory building might be construed as being in the rear yard if the "full width of the lot" between the building and rear lot line were imposed. However, since no accessory buildings are allowed in a front yard, and no encroachments other than minor architectural elements of the main building area allowed, the accessory building is deemed to be in a front yard and is therefore a development standards nonconformity.

The setbacks defined for the side and rear yards also define the building envelope for the main building. Normally, the main building can be expanded into the whole portion of the rear yard up to the rear yard setback line, as well as to the side yard setback line(s). The question then becomes, if the house is extended further back, does that in effect further increase the nonconformity of the accessory building?

The interpretation is that the accessory building is nonconforming by virtue of it being located in a front yard. The circumstance of the nonconformity is not affected by the expansion of the main building into that portion of the defined rear yard where it is legally allowed to do so. Note that the accessory building could be relocated into that portion of the defined rear yard anywhere between the rear of the main building and the rear and side lot lines, in accordance with the location requirements of Section 25.09.03.