

# memo

**DATE:** May 2, 2017

**TO:** Sara Roediger, Planning Director

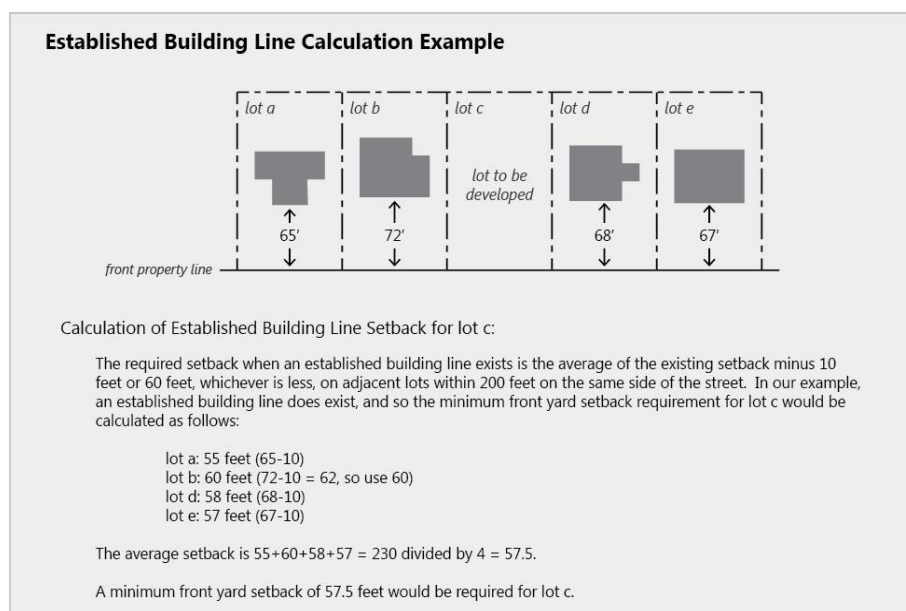
**FROM:** Jill Bahm and Karen Zarowny, Giffels Webster

**SUBJECT:** Rochester Hills Front Yard Setback Exceptions and Alternatives

Rochester Hills is examining how neighboring communities regulate front yard setbacks. The city's ordinance follows an established front yard setback schedule. However, if there is an established building line along a street, then setback is determined by a complex calculation, as provided below. Administrative staff is looking for a solution that would make calculations simple, easily understood, and result in an appropriate and compatible front yard setback. It appears that the intent of the standard is to prevent a new home from being set too far in front of existing homes on the street if the previous development followed a different pattern than what the zoning standards currently allowed.

**Section 138-5.101 Footnotes to the Schedule of Regulations**

- B. Established Building Line.** *In the event that there is an established building line along a street (as determined by the official reviewing the application), the front yard and/or side street yard setback requirement shall be the established building line. The established building line is the average front yard setback minus 10 feet of adjacent dwellings within 200 feet of each side of the lot and on the same side of the street as the subject parcel, or 60 feet, whichever is less. Refer to the following illustration for an example of an Established Building Line calculation:*



*The front setback of an adjacent structure shall be measured at the shortest distance between the structure's exterior surface and the front lot line. In the event that any of the parcels located within 200 feet of the subject parcel is vacant, the minimum setback required by [Section 138-5.100](#) shall be used as the front yard setback for that parcel in calculating the average setback.*

*Exceptions: If an established building line exists but the setback of the adjacent structures is greater than the minimum setback but less than 10 feet greater than the minimum setback, then the minimum setback for the district shall be the required setback. If an established building line exists that is less than the minimum setback for the district, then the minimum setback shall be the established building line without subtracting 10 feet from the setback of adjacent dwellings. In no case shall a front yard setback be reduced to less than 20 feet, regardless of the established building line, and in no case shall a garage door be located closer to the front property line than the minimum setback required in the zoning district by [Section 138-5.200](#).*

We concur with the city attorney's letter of May 1 that notes confusion on when to subtract the ten feet when applying this formula. We also question the purpose of the ten-foot factor. In the ordinance's provided example, calculating the setback for "Lot c" results in a setback of 57.5 ft based on subtracting ten feet from the setbacks of lots a, b, d, and e. The result is a 14.5 ft difference between the setbacks of lots b and c, and a 10.5 ft difference between lots c and d. Applying a straight average would result in a setback of 68 ft, bringing the front setback of lot c closer to the neighboring lots.

Another question that arises is how to apply the regulations to corner lots and whether such lots effectively have two front lot lines with required front setbacks; this may minimize the ability for such lots to be developed.

Before suggesting clarifying zoning standards, we researched nearby communities to understand how similar situations are addressed in their zoning ordinances.

### **Neighboring Community Front Yard Setback Regulations**

#### **TROY, MICHIGAN**

The City of Troy follows a standard length in setback from the lot line based on district, with an exception based on road type classification:

##### Section 4.06.D Supplemental District Regulations

1. *Whenever a lot or acreage parcel abuts a major arterial, the yard setback abutting said major arterial shall be at least fifty (50) feet from the existing right-of-way line, whichever is greater. This ordinance does not prohibit expansion behind the fifty (50) foot setback. This requirement shall not apply to subdivisions for which Tentative Approval was granted prior to January 1, 1976.*
2. *Whenever a lot or parcel abuts I-75, the yard setback abutting the right-of-way of I-75 shall not be less than seventy-five (75) feet.*

**Corner Lots**2.02 Definitions

**LOT LINE:** *The line bounding a lot as defined in this Ordinance:*

- A. **FRONT LOT LINE:** *In the case of an interior lot, that line separating said lot from the right-of-way or planned future right-of-way identified in the City of Troy Master Plan (the street). In the case of a corner lot, both lines separating said lot from the street shall be considered front lot lines. In the case of a double frontage lot, a line separating said lot from that street which provides access to the lot shall be considered the front lot line; the other shall be considered a rear lot line.*

Section 4.06.D Supplemental District Regulations

6. *Lot Frontage on Corner Lots, Curved Roads, and Culs-de-Sac.*
- a. *On all corner lots, the frontage set forth shall be measured on one (1) street only.*
  - b. *For lots on curved streets that have curvilinear frontages, frontage shall be determined by measuring the linear distance along the curve.*
  - c. *In the event that the lot is situated on a cul-de-sac, the frontage shall be measured along the minimum setback line for the zone in which said lot is located.*

**AUBURN HILLS, MICHIGAN**

The City of Auburn Hills follows a standard length in setback from the lot line based on district, with an exception:

Section 1701. Footnotes to the Schedule of Regulations

c) *Where a majority of the front yards of greater or less depth than the minimum required depth exists in the front of a dwelling or dwellings in existence at the time of the passage of this Ordinance on one (1) side of a street or in any block, the depth of the front yard of any building subsequently erected on that side of the street in that block shall not be less and need not be greater than the average depths of the front yards of such existing dwellings, but this shall not be deemed to require a front yard of greater depth than sixty (60) feet, or permit a depth less than twenty-five (25) feet in any case.*

**Corner Lots**Section 1701. Footnotes to the Schedule of Regulations

d) *The side yard abutting upon a street shall not be less than twenty-five (25) feet when there is a common rear yard relationship in said block and a common side yard relationship with the block directly across the common separating street. In the case of a rear yard abutting a side yard of an adjacent lot, or when said side yard abuts on frontage across a common street, the side yard abutting a street shall not be less than the required front yard of the District.*

**ROCHESTER, MICHIGAN**

The City of Rochester follows a standard length in setback from the lot line based on district. However, there are exceptions for infill development (Infill house means a house constructed on a vacant lot or a house constructed to replace a demolished house where the homes within 200 feet on the same side of the block are an average of at least ten years old):

Section 2116. - Residential infill housing development standards.

(10) *The front setback of an infill house need not be greater than the average front setback of the homes within 200 feet on the same side of the block, even if this average setback is less than the minimum required for the zoning district in question (See attached illustration "B" [in section 2117].)*

(11) *The front setback of an infill house shall not be greater than the front setback required in the zoning district in question unless the average front setback of the homes within 200 feet on the same side of the block is equal to or greater than the proposed setback. (See attached illustration "C" [in section 2117].) On corner lots the front setback of the homes within 200 feet in the interior of the block shall be used to establish the average front setback. (See illustration "D" [in section 2117].)*

**SHELBY TOWNSHIP, MICHIGAN**

The Township follows a standard length in setback from the centerline for each road right-of-way and what district it the property falls under. There are distinctions for lots created before or after the adoption of the Zoning Ordinance. The following is the exception for front yard setbacks:

Section 4.08 Setback exception

1. *Front yard setback exception. In any case where the majority of sites in any block have already been developed and structures are erected thereon prior to the effective date of this ordinance [October 19, 1997], any new structures shall be set back from the front site line in accordance with the building line established by such development; provided, however, this provision shall not be construed to require a front setback in excess of 40 feet; and provided, further, this shall not be construed or interpreted to affect any requirements established by this ordinance for minimum site size of any corner site facing an intersecting street.*

**Corner Lots**Section 3.34 – Side yard setbacks (corner lots and double frontage lots)

*The placement of all buildings on corner lots and lots having frontage on two or more streets shall observe the required front yard setback from all streets as required by the zoning district within which the site is located, except as modified below. This provision applies to corner lots and double frontage lots. When a rear yard abuts a side yard, the minimum width of the side yard abutting a street shall not be less than 25 feet in all single-family zoning districts. When a rear yard abuts a rear yard, the minimum width of the side yard abutting the street shall not be less than 20 feet in the R-1-A district and 15 feet in the R-1-B and R-1-C districts. This provision only applies to lots in existence prior to the adoption of this zoning ordinance. All lots created after the effective date of the zoning ordinance [October 19, 1997] are required to observe front yard setbacks from both streets.*

**WASHINGTON TOWNSHIP, MICHIGAN**

The township follows a standard length in setback measured from the centerline of each road right-of-way in accordance with the Township's Master Plan designation and the Macomb County Department of Roads. The front yard setback shall be measured from the road easement or common usage line abutting the subject lot.

*When structures have been built upon a majority of the parcels in a block with a lesser setback than permitted in this section, **a structure may be built to the setback of the mean average of the structures in the***

**block** provided further that the setback on corner lots on the side streets shall not reduce the buildable width on parcels of land to less than a 24-foot wide building.

UTICA, MICHIGAN

The City of Utica follows a standard length in setback from the lot line based on district.

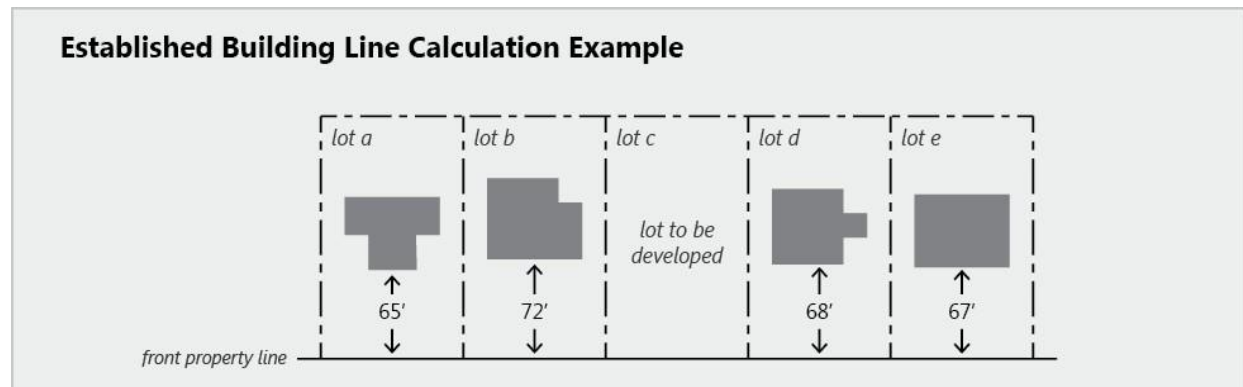
**Corner Lots**

Section 1301. Notes to schedule of regulations.

*(b) In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required. In the R-1A and R-1B districts, "when buildings having the same setback have been constructed on the majority of parcels on the same block frontage at the time of the adoption of this ordinance, the required setback line shall be that line established by existing buildings. In the instance where variable setbacks are present for existing buildings, a setback of 25 feet shall be required."*

**SUGGESTED ALTERNATIVE**

Based on the research of how other communities determine setbacks in specific circumstances, most communities seem to recognize and address the issue of compatibility with adjacent homes in terms of front setbacks; however, it does not appear that any of them are similar to the Rochester Hills standard, particularly the ten-foot variable. We suggest that front setbacks be permitted to be set at the average setback of adjacent lots on the same side of the street within 200 feet, whether the existing setback is closer or further from that which would otherwise be required. Our recommended amendment would replace Sections 5.138-5.101.B and C. and add the following:



B. **Average Front Setback.** *If there are existing homes within 200 feet of a subject lot, on the same side of the street, that have an average setback that differs from the front setback as required within this ordinance by more than ten feet, then the average front setback shall be used as the required front setback, provided, however, that in no instance shall a front yard setback be reduced to less than twenty (20) feet.*

- C. **Corner Lots.** On the side street yard which abuts a residential district side yard in a common line, there shall be provided a side yard equal to the minimum side yard required in said residential district. If the side street yard abuts a residential district front yard in a common line, required front setbacks apply to said side street.

