

DEPARTMENT OF SAFETY AND PERMITS
CITY OF NEW ORLEANS

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MAYOR

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DIRECTOR

ZONING INTERPRETATION MEMORANDUM

Memorandum Z-13-02

DATE: June 28, 2013

FROM: Jared E. Munster, Ph.D., Director

TO: Leslie T. Alley, Deputy Director, City Planning Commission

RE: Interpretation of Section 14.6.2 with respect to Variances Setback Standards of Section 11.62.

Upon the request of the Board of Zoning Adjustments / City Planning Commission staff, Safety and Permits has evaluated the powers of the Board of Zoning Adjustments (BZA) with respect to setback variances for standards contained in Section 11.62 of the Comprehensive Zoning Ordinance (Ord. 4,264 MCS, as amended) (CZO). It is the interpretation of the Director of Safety and Permits that the BZA is empowered to grant variances of the setback standards for Artists Communities.

Section 11.62(b) provides “Public gathering spaces shall be set back at least ten (10) feet from the public rights-of-way and 100 feet from any residentially used property;” however, the CZO fails to define the term ‘set back’ for the purpose of application within the Ordinance. When a term is not defined within the CZO, the Ordinance provides that it “shall be interpreted in accord with th[e] normal dictionary meaning and customary usage” (§ 2.1.5). Black’s Law Dictionary defines a ‘setback’ as “the minimum amount of space required between a lot line and a building line.” By applying this definition to the term ‘setback’ and referencing the Ordinance-provided definitions of Section 2.2 of the CZO, one finds that a ‘yard,’ for the purposes of the CZO, is defined as “An open space other than a court at existing ground level between a buildable area and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. For the purpose of determining yard measurements, the least horizontal distance between the lot line and the buildable area shall be used” (§ 2.2.197). The substantial similarity of these definitional explanations, paired with the common usage of the term ‘setback,’ causes this Department to unequivocally state that the terms ‘yard’ and ‘setback’ are synonymous for the purpose of application within the CZO.

Pursuant to Section 14.6.2, the BZA is granted the authority to grant variances from the standards of the CZO “to permit any yard, lot width or frontage less than the yard, lot width or frontage required.” As the terms ‘yard’ and ‘setback’ are determined to be synonymous, it is the interpretation of the Director of Safety and Permits that the BZA is authorized to grant variances to the setback standards of Section 11.62.

