

Zoning Interpretation Record

Subject of Interpretation:

Adding on for the purpose of creating an additional lot for family

Zoning Ordinance Reference (Article and Section):

Title II, Section 2-31(1)

Interpretation:

Title II, Section 2-31 lists situations exempt from the provisions of the Subdivision Ordinance. This includes "the sale or exchange of parcels between adjoining property owners, where such sale or exchange does not create additional building lots or new roads." A property owner cannot add on acreage for the purpose of creating an additional building lot.

In addition, Article 10, Section 3B of the Zoning Ordinance provides that, notwithstanding the other lot area requirements for the applicable zoning districts, a lot with minimum of two acres may be created for the purpose of constructing a home to be occupied by a qualifying family member. Subsection 1 (a) of Section 3B clearly states that the "homestead lot" shall not be created "for the purpose of circumventing this Ordinance." The combination of existing parcels and the addition of land from one parcel to another are permissible or addition of property cannot be done if the intent is to create an additional building lot that would otherwise not be permitted by right. In reviewing property transfers that occurred in the past, staff will look at circumstances and the amount of time that has past since the transfer. The staff has used five years as general guideline for consideration as to whether an action was done to circumvent the County's zoning and subdivision regulations. If a property owner has held title to the property for that long, it appears reasonable to conclude that the addition of land was not being made for the sole purpose of the creation of an additional building lot.

Examples:

Property owner has 11.5 acres, zoned A-1. The property owner cannot add 0.5 acres to the parcel in order to make the parcel eligible for a family subdivision.

Approved by Michael E. Crescenzo, Director of Planning 10/2/08