

	CITY OF BELVEDERE – ADMINISTRATIVE POLICY MANUAL		
	POLICY 15.5 EAVES ALLOWED IN REQUIRED SETBACKS		
Adoption Date:	5/11/2009 ¹	Adopted by:	City Council Motion
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Authority:	City Council		

15.5.1 BACKGROUND

Belvedere Municipal Code Title 19 Zoning provides development guidelines for all projects in the City's various zoning districts. Chapter 19.48 of the Zoning Code specifically addresses the minimum required yards and setbacks for a parcel. This policy will discuss Section 19.48.190 (H) of the Zoning Code, one of the exceptions to the required minimums.

Planning Department Staff, applicants and the Belvedere Planning Commission have relied upon this section of the Zoning Code in the past. Examples include 17 Eucalyptus Road, 125 Belvedere Avenue and 8 Eucalyptus Road. In each of these cases, a portion of the roof eave was allowed to project into a required side yard without a Variance. For consistency with future applications, this policy is based on the precedent set by these projects.

15.5.2 COMMENTS

The first section of Chapter 19.48 Yards and Setbacks establishes the general guidelines of the section. The first section, 19.48.010, states "Required yards shall be measured from and parallel to the front, side or rear property line, as appropriate to the measurement, to the nearest point of a structure on the parcel. No building, accessory building, or other structure, or portion thereof (including roof overhangs), shall be constructed in any yard or between the street line and the setback line within such lot, except as is expressly provided in this Chapter."

Later in the Chapter, Section 19.48.190 lists ten (10) exceptions from required yards and these are enumerated as "A" through "J." Subsection "H" has been applied only rarely since the adoption of the Zoning Code in 1989. This subsection states:

"Where a building wall is not parallel to a parcel line, or where a building wall does not follow a continuous unbroken alignment, a portion of the roof overhang may project into a required yard provided that:

1. The average depth of the setback is at least equal to the required setback otherwise required for the parcel, and
2. The setback is never less than seventy percent of the required setback otherwise required for the parcel."

¹ Recommended by Planning Commission 2/17/2009

15.5.3 POLICY

Measurement of Yards and Setbacks, Chapter 19.48

Common architectural and engineering practice dictates that the distance from any line and any point is measured at a 90 degree angle from the line. Chapter 19.48 follows this convention by describing the required yards for a parcel as "measured from and parallel to" each property line.

Certain Exceptions From Requirements

The applicability of subsection "H" for any project is predicated on a certain building wall configuration in relation to the parcel line. The defining first sentence states, "Where a building wall is not parallel to a parcel line, or where a building wall does not follow a continuous unbroken alignment, a portion of the roof overhang may project into a required yard..."

Staff's interpretation of Section 19.48.190 (H) relies first and foremost upon the unique situation where the building wall closest to the adjacent parcel line is not parallel, or, as the Code continues, the building wall does not follow a continuous unbroken alignment. A "building wall" is not defined by the Municipal Code. However, the following sources provide Staff with a common understanding:

- American Architecture: An Illustrated Encyclopedia defines wall as "An upright structure that serves to enclose, support, or subdivide a building, usually presenting a more or less continuous surface except where it is penetrated by openings such as doors and windows."
- Dictionary.com defines wall as "Any of various permanent upright constructions having a length much greater than the thickness and presenting a continuous surface except where pierced by doors, windows, etc.: used for shelter, protection, or privacy, or to subdivide interior space, to support floors, roofs, or the like, to retain earth, to fence in an area, etc."

For the purposes of this policy, a building wall means any one continuous surface except where penetrated by doors or windows, not to be confused with the entire side of a building. As allowed by the Code, eaves for small breaks in the wall plane such as for bay windows, vestibules and similar architectural features would account for a "broken" alignment along a straight property line. Conversely, a property line might have a "broken" or staggered alignment (not parallel or even straight) in relation to a continuous building wall.

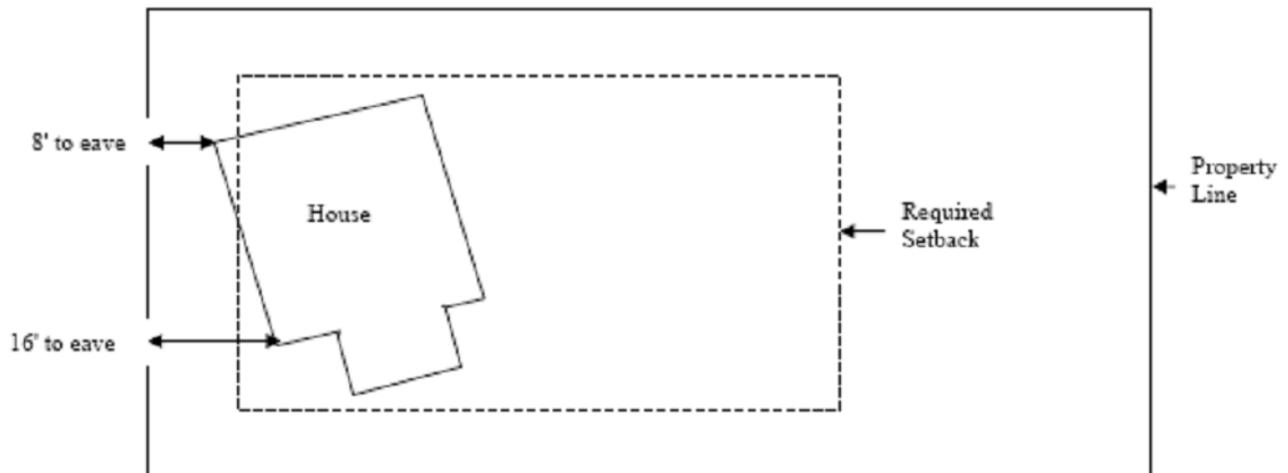
Policy Summary

1. For the purposes of this policy, building wall means any one continuous surface except where penetrated by doors or windows, not to be confused with the entire side of a building. When a building wall is not parallel to the property line, the exception described in subsection "H" for a required yard is allowed with specific limitations. These limitations are listed as:
 - a) The average depth of the setback is at least equal to the required setback otherwise required for the parcel, and
 - b) The setback is never less than seventy percent of the required setback otherwise required for the parcel.

2. In the case of the first limitation, the average depth of the setback is determined by measuring the greatest setback and the shortest setback of a wall to the property line where the proposed encroachment into the setback would occur. The average is taken by adding the two measurements and dividing by two. As the Code states, the average setback must be equal or greater than the required setback. In the case of the second limitation, the setback must in no case be less than 70 percent of the required setback otherwise required for the parcel.
3. In sum, the policy allows a less than significant "portion" (a part or section) of a roof overhang of one "wall" (one continuous, unbroken surface) to encroach into a required yard or setback, only when that wall and the property line are not substantially parallel. The average distance of the one wall to the parcel line must be equal to or greater than the required setback for the parcel. The encroachment must not create a setback that is less than 70 percent of what is otherwise required for the parcel. The determinations of whether a building wall is substantially parallel and how much of an eave is a "portion" are determined on a case-by-case basis by Belvedere Staff and/or the Planning Commission.

Diagram.

Illustration of Interpretation of BMC Section 19.48.190 (H), Residential zones – Certain facilities and structures permitted in yards.



Building wall minimum = 8'
 8' > 70% of 10' (required setback)

Building wall maximum = 16'
 Average = 12' (8+16 divided by 2 = 12)
 12' > 10' (required setback)