



Requested Interpretation		Case Number
<p>Issues: (1) Whether a window well that is connected to a building structure constitutes a retaining wall within the meaning of the UDO and (2) Whether the property at 1604 Jarvis complies with the City's side setback requirements.</p> <p>Applicable UDO Sections: 1.5.4; 7.2.8</p> <p>Background: DJF Builders is currently constructing a house on property that it owns at 1604 Jarvis Street. This property is adjacent to the home of Mr. Graves. DJF Builders has built a window well that may be within the side setback requirements of UDO § 1.5.4. This window well is part of the structure of the house and is connected to and is an integral part of the foundation and walls of that house. The window well rises above ground level and is not a free-standing structure. Although the UDO does not appear to define "retaining wall," Encyclopedia Britannica defines "retaining wall" as a "freestanding wall that either resists some weight on one side or prevents the erosion of an embankment." <a href="http://www.britannica.com/technology/retaining-wall">www.britannica.com/technology/retaining-wall</a> Moreover, the term "retaining wall" is most often used to refer to "a freestanding structure without lateral support from its top." James E. Ambrose, SIMPLIFIED DESIGN OF MASONRY STRUCTURES 70 (1991). Here, the window well is part of the structure of the house and provides lateral support to the house. It is not freestanding. Accordingly, the window well does not constitute a retaining wall within the meaning of UDO § 7.2.8. Additional details are set out in correspondence of Chris Browning to Gary Mitchell (8/29/17).</p>		UI-14-17
Site Address/PIN: 1604 Jarvis Street		
Date Submitted: August 14, 2017	Date Issued: October 20, 2017	Code Sections Affected: 1.5.4; 7.2.8

## STAFF ANALYSIS

The applicant has asked about the certain building elements associated with a property currently under construction at 1604 Jarvis Street. The applicant has asked whether or not a window well constitutes a retaining wall and whether or not the subject property complies with the applicable setback regulations. The UDO contains setbacks assigned by building type and zoning district. In this specific instance, the subject property is zoned Residential-4 and the property owner is constructing a detached building. The UDO requires that a detached building meet front, side and rear yard setbacks. In the R-4 district, the minimum required front setback for a detached structure is 20 feet; the minimum required rear setback is 30 feet and the minimum required side yard setback is 10 feet. The front yard setback may be modified if the development qualifies as residential infill as stated in section 2.2.7.

The primary focus of this inquiry is related to the side yard setback; specifically on the northern elevation. The applicant has requested an interpretation of the window well on the northern (side) property line. The approved building plans do not show the window wells or a dimension from the northern property line to any of the window wells; although the building wall is shown at approximately 11 feet from the northern property line. City staff did perform a property visit to investigate the questions raised by the applicant. While the staff did not survey the property to accurately locate the property lines, they did utilize property stakes that appeared to mark the property line. In staff's estimation, the closest edge of the window wells was approximately 8 feet from the northern property line.

The applicant has asked whether or not the window wells constitute a retaining wall, as defined in section 7.2.8 of the UDO. The term "retaining wall" is mentioned a number of times within the UDO, including in section 7.2.8, article 7.3, article 9.1 and article 12.2. It is not a defined term in the UDO. The property at 1604 Jarvis contains one protruding portion of the building façade on the northern wall. This protruding element was shown on the approved plot plan, located outside of the required side yard setback.

## STAFF INTERPRETATION

A window well serves a purpose to retain earthen material for windows that are partially or wholly below the finished grade of a building. A subgrade window provides light into the living space. It also provides a means of egress in the event of an emergency, similar to a fire escape for upper story windows. Staff did not provide a structural analysis of the window wells in an effort to support or refute the applicant's claim that the walls are a structural component of the house. The window well appears to be constructed in a manner where the building façade and window well masonry units touch. The window well masonry units do not appear to be constructed in a manner that makes the window well an integral part of the house structure. In fact, during staff's site analysis, it appeared that some of the window well masonry units were not touching the building façade. Staff does not believe that the absence of the window well would cause the façade of the structure to fail. Given that presumption, it is difficult to consider the window well a part of the structure. Staff would not consider the window wells to be a part of the house in the same way that decorative wall that abuts the wall

of a structure is not a part of the structure. It is important to note that this window well is mostly subterranean, with only a small amount extended above the finished grade.

In reviewing the second question posed by the applicant, staff did not perform a boundary survey, and did not review the entirety of the construction improvements for conformance with the applicable code standards. Only the southern portion of the building façade was analyzed. Accurately identifying the property lines and identifying the position of the structure relative to those property lines would provide the most accurate results. In staff's analysis, it appears that the structure is constructed in a manner consistent with the approved plot plan. Given the opinion that the window well is not a part of the structure, staff does not believe that there is an encroachment on the northern property line.

**SIGNATORY**



Travis R. Crane, Assistant Planning Director & Interim Planning and Zoning Administrator