

Legislative Summary

Ordinance 21-16

APPROVING A TEXT AMENDMENT TO MODIFY REGULATIONS RELATING TO ACCESSORY STRUCTURES

Introduced:	December 13, 2021
Purpose:	To amend select sections of Title 12 (Unified Development Code) of the Morton Grove Municipal Code to modify regulations relating to accessory structures
Background:	<p>Village staff continuously reviews and updates the Unified Development Code as needed to keep regulations current and promote predictable and desirable development. As such, the Village submitted a Text Amendment Application to modify select regulations relating to accessory structures, including, but not limited to, driveways, mechanical equipment, open accessory parking spaces, and recreational courts to improve the Village's dimensional control over the bulk and siting of accessory structures, provide greater flexibility to property owners, and improve Code clarity for users and administrators.</p> <p>Specifically, the proposed Text Amendment allows for the replacement of certain non-conforming driveways, adds greater flexibility in the siting of mechanical equipment, adds flexibility in the required setback for open accessory parking spaces, clarifies that no open accessory parking space may be located within a front or street side yard, and requires an increased setback for recreational courts. The Amendment is intended to reduce the number of non-conformities created by Code and mitigate future Variation Applications.</p> <p>On November 15, 2021, the Village appeared before the Plan Commission to present the request for approval of the Text Amendment and take comments. Based on the revised application, supporting staff reports, and testimony presented at the public hearings, the Plan Commission voted unanimously (6-0; Stein absent) to recommend approval of the Text Amendment.</p>
Programs, Departments or Groups Affected	Department of Community and Economic Development
Fiscal Impact:	None at this time
Source of Funds:	N/A
Workload Impact:	The Community Development Administrator will take all steps necessary to implement this Ordinance as part of their normal workload.
Administrator Recommendation:	Approval as presented
Second Reading:	Required January 10, 2022
Special Considerations	None

Submitted by: Ralph E. Czerwinski, Village Administrator
Reviewed by: Teresa Hoffman Liston, Corporation Counsel
Prepared by: Zoe Heidorn, Community Development Administrator

ORDINANCE 21-16

APPROVING A TEXT AMENDMENT TO MODIFY REGULATIONS RELATING TO ACCESSORY STRUCTURES

WHEREAS, the Village of Morton Grove (the Village), located in Cook County, Illinois, is a home rule unit of government under the provisions of Article 7 of the 1970 Constitution of the State of Illinois, can exercise any power and perform any function pertaining to its government affairs, including but not limited to the power to tax and incur debt; and

WHEREAS, the Village continuously reviews and, as it deems necessary, updates existing Municipal Codes to assure they are kept current and relevant; and

WHEREAS, the Village of Morton Grove submitted a complete Text Amendment Application to the Morton Grove Plan Commission under case PC 21-03 to consider and recommend adoption of Text Amendment to Sections 12-2-5, 12-2-6, 12-3-5, 12-9-3, and 12-17-1 of the Village of Morton Grove Unified Development Code (Ordinance 07-07) to modify standards relating to accessory structures; and

WHEREAS, the proposed Text Amendment includes modifications to selected regulations relating to accessory structures to improve the Village's dimensional control over the bulk and siting of accessory structures, better reflect modern development practices, provide greater flexibility to property owners, and improve Code clarity for users and administrators; and

WHEREAS, pursuant to the applicable provisions of the Municipal Code, notice of the first public hearing for case PC 21-03 on November 15, 2021, was duly published in the *Pioneer Press*, a newspaper of general circulation in the Village of Morton Grove, on October 28, 2021; and

WHEREAS, as required by ordinance, the Morton Grove Plan Commission held a public hearing relative to the above referenced case on November 15, 2021, and at said public hearing, all concerned parties were given the opportunity to be present and express their views for consideration by the Plan Commission; and

WHEREAS, as a result of said public hearing, the Plan Commission considered all the evidence and testimony presented to it, discussed the merits of the application and made certain recommendations through a report dated December 1, 2021, a copy of which is attached hereto and made a part hereof and marked as "Exhibit A"; and

WHEREAS, the Corporate Authorities have considered this matter at a Public Meeting and find the Text Amendment, when evaluated in the context of the whole Village, serves the public good.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE, COOK COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Ordinance, as though fully set forth herein, thereby making the findings as hereinabove set forth.

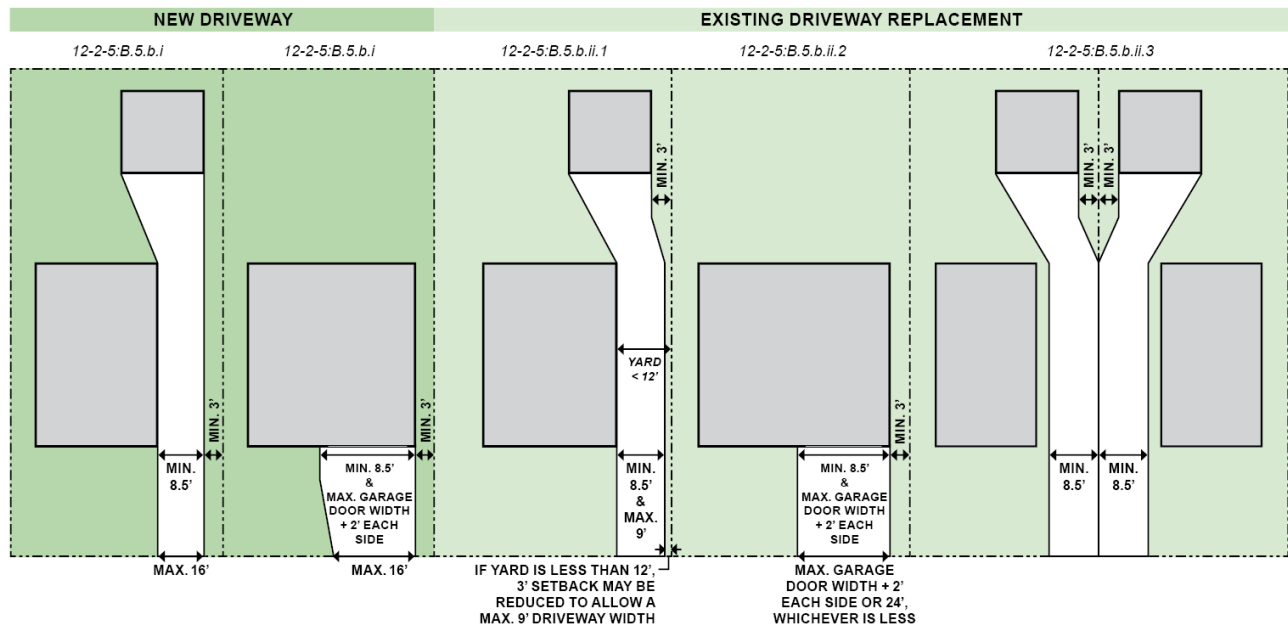
SECTION 2: Title 12, Chapter 2, Section 5, Subsection B, entitled, "Accessory Structures," is hereby amended as follows:

12-2-5: ACCESSORY USES AND STRUCTURES:

B. Accessory Structures:

1. In no event may an accessory structure become attached to a principal structure where such a combined structure would not comply with the applicable bulk regulations of the zoning district within which it is located.
2. Residential Districts: In residential districts, detached accessory buildings:
 - a. Shall not be located in the front yard or required side yards;
 - b. Shall not be located closer than three feet (3') to the rear or side lot line, or to another detached accessory building structure;
 - c. Shall not occupy more than thirty percent (30%) of the rear yard in building area;
 - d. Shall be at least ten feet (10') from the principal structure;
 - e. Shall not have more than one story nor exceed seventeen feet (17') in height, ~~unless otherwise permitted as accessory to business and manufacturing [TL1] uses.~~
3. Rear Yard Coverage: In no event may the total coverage of accessory structures and impermeable surfaces combined exceed fifty percent (50%) of a rear yard.
4. Temporary Accessory Structures: Temporary accessory structures must comply with the setback requirements of the district in which it is located, or as otherwise deemed appropriate by the Village Administrator, and with all applicable building and life safety code requirements. Any temporary accessory structure exceeding two-hundred (200) square feet in area or seventy-two (72) hours in duration in a calendar year shall be required to obtain a permit prior to installation of the structure, or as otherwise deemed appropriate by the Building Commissioner. Temporary trailers are subject to the provisions of Section 12-3-8. Temporary signs and displays are controlled by Section 10-10-8. (Ord. 07-07, 3-26-2007; Ord. 20-01, 1-27-20)
5. Driveways:
 - a. Driveways serving non-residential uses, attached dwellings, and multi-family dwellings:
 - i. All driveways shall conform to a minimum width of twenty-four feet (24'), consisting of two (2) twelve-foot (12') driving lanes, one lane in each direction. One-way driveways, a minimum of eighteen feet (18') wide may be allowed, provided all the requirements of subsection 12-9-1:B, "Lot Access", are met. Should alternate driveway configurations and dimensions be proposed, they will be subject to the review and approval of the Village Administrator or his/her designee.
 - ii. Shared driveways may be allowed, and in some cases encouraged, between adjacent property owners, provided that an easement document, meeting Village standards, which addresses access, maintenance, and liabilities of both parties is recorded with Cook County and is maintained on file with the Village.

- b. Driveways serving single-family detached dwellings and two-family dwellings:
- i. Driveways shall be a minimum width of eight and one-half feet (8.5'), shall be set back a minimum of three feet (3') from any non-driveway approach lot line, and shall be limited to a maximum width of sixteen feet (16') at any front or street side lot line. Maximum interior driveway width shall be determined by the exterior width of the garage, as measured from no more than two feet (2') outside the garage door edges, or alternative conforming parking area. Each lot line shall be limited to (1) driveway approach.
 - ii. Exceptions for replacement of existing nonconforming driveways:
 1. For a driveway within a yard less than twelve feet (12') in width, the minimum setback of three feet (3') from any non-driveway approach lot line may be reduced to allow a driveway width no greater than nine feet (9').
 2. For a driveway that leads to an attached garage and is greater than sixteen feet (16') in width at the front or street side lot line, the maximum driveway width at the front or street side lot line shall be determined by the exterior width of the garage, as measured from no more than two feet (2') outside the garage door edges, or twenty-four feet (24'), whichever is less.
 3. For a driveway that abuts an existing driveway on adjacent private property, no setback shall be required from the non-driveway approach lot line. However, the driveway width shall not be increased within the interior side yard.



SECTION 3: Title 12, Chapter 2, Section 6, Subsection G, entitled, "Permitted Obstructions," is hereby amended as follows, with new permitted obstructions to be inserted in alphabetical order:

12-2-6: YARDS:

G. Permitted Obstructions: The following shall not be considered as obstructions when located in the yard indicated:

Permitted Obstruction * Y = Permitted // N = Prohibited				
Permitted Obstruction	Required Yard			
	Front	Street Side	Interior Side	Rear
Driveway ** <u>Controlled by Section 12-2-5:B.5</u> <u>Min. 9' width; Min. 3' from all lot lines; For replacement of existing driveways, 3' setback may be reduced to allow a driveway width of 9' if yard is less than 12'; Max. 1 driveway within any yard; Max. width of 16' at front or street side lot lines</u>	Y	Y	Y	Y
<u>Mechanical Equipment, Aboveground Heating, Ventilation, and Air Conditioning (HVAC) Equipment</u> <u>Permitted within 10 feet of principal structure; Heating, ventilation, and air conditioning (HVAC) equipment subject to the provisions of Section 10-1-1:F.1; permitted within 10 feet of principal structure</u>	N	N	N	Y
<u>Mechanical Equipment, Belowground</u> <u>Min. 3' from all lot lines</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
Open Accessory Parking Spaces ** <u>Min. 3' from all lot lines; For replacement of existing parking spaces, 3' setback may be reduced to allow a parking space width of 9 feet if yard is less than 12'; No portion may project into a front or street side yard</u>	N	N	Y	Y
<u>Tennis, Volleyball, Basketball, Shuffleboard, and Other Recreational Courts</u> <u>Min. 10' from all lot lines</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>

* In order to maintain visibility on corner lots, the height of a permitted obstruction located within twenty feet (20') of the lot corner formed by the intersection by any two (2) lot lines bounding a public street may not exceed twenty-four inches (24") above curb level.

** Within five feet (5') of any lot line, height shall not exceed grade of nearest lot line, or as otherwise approved by the Building Commissioner.

SECTION 4: Title 12, Chapter 9, Section 3, Subsection D, entitled, "Driveways," is hereby amended as follows:

12-9-3: ALLEYS, SIDEWALKS, PEDESTRIANWAYS AND DRIVEWAYS:

D. Driveways: All driveways shall conform to the requirements of Section 12-2-5:B.5. All driveways shall be a minimum of twenty four feet (24') wide, consisting of two (2) 12-foot driving lanes, one lane in each direction, except for driveways for single family homes where the width of the driveway shall be based on the size of the garage. One-way driveways, a minimum of eighteen feet (18') wide may be allowed, provided all the requirements of subsection 12-9-1B, "Lot Access", of this chapter, are met.

~~Shared driveways may be allowed, and in some cases encouraged, between adjacent property owners, provided that an easement document, meeting Village standards, which addresses access, maintenance, and liabilities of both parties is recorded with the Cook County recorder of deeds and on file with the Village. (Ord. 07-07, 3-26-2007)~~

SECTION 5: Title 12, Chapter 17, Section 1, entitled, "Terms Defined," is hereby amended as follows:

DAYCARE CENTERS: A building where care, protection, and supervision are provided on a regular schedule at least twice a week to at least eight (8) preschool or elementary school age children or both, including children of the adult provider, or persons with disabilities related to age who require supervision, for a period of care during part or all of a day between six o'clock (6:00) A.M. and nine o'clock (9:00) P.M.

This definition does not include "group care home", "foster family home", centers for individuals with developmental disabilities ~~"centers for the mentally retarded"~~, as defined and licensed by the state of Illinois, bona fide kindergartens or "day nursery schools", established in connection with grade schools supervised or operated by a private or public board of education or approved by the state department of public instruction.

SCHOOL: An institution which offers instruction in any of the branches of learning which is required to be accredited under the Illinois school code or approved by the department of mental health, including a school for individuals with developmental disabilities ~~mentally retarded~~, kindergarten, elementary schools, junior and senior high schools, colleges and universities, but excluding private nursery or prekindergarten, trade, business, or commercial schools.

SECTION 6: The terms and conditions of this ordinance shall be severable and if any section, term, provision, or condition is found to be invalid or unenforceable for any reason by a court of competent jurisdiction, the remaining sections, terms, provisions, and conditions shall remain in full force and effect.

SECTION 7: Except as to code amendments set forth in this ordinance, all chapters and sections of the Morton Grove Village Code shall remain in full force and effect.

SECTION 8: This ordinance shall be effective from and after its adoption, approval, and publication as provided by law.

PASSED THIS 10th day of January 2022.

Trustee Grear Aye

Trustee Kahn Aye

Trustee Minx Aye

Trustee Thill Aye

Trustee Travis Aye

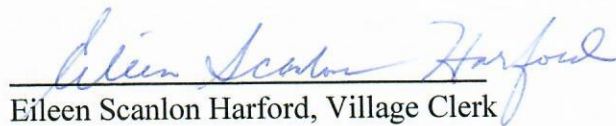
Trustee Witko Aye

APPROVED BY ME THIS 10th day of January 2022.



Daniel P. DiMaria, Village President
Village of Morton Grove
Cook County, Illinois

ATTESTED and FILES in my office
This 11th day of January 2022.



Eileen Scanlon Harford, Village Clerk
Village of Morton Grove
Cook County, Illinois

EXHIBIT A

Plan Commission Report for PC 21-03

Dated December 1, 2021

To: Village President and Board of Trustees

From: Steven Blonz, Chairperson, Plan Commission
Ralph Czerwinski, Village Administrator
Teresa Hoffman Liston, Corporation Counsel
Zoe Heidorn, Community Development Administrator

Date: December 1, 2021

Re: **Plan Commission Case PC 21-03 – Request for a Text Amendment to Sections 12-2-5, 12-2-6, and 12-9-3 of the Morton Grove Municipal Code, Title 12 (Unified Development Code), regarding the regulation of accessory structures, and to Section 12-3-5 regarding the regulation of fences (6101 Capulina Avenue, Morton Grove, Illinois)**

Executive Summary

The Village of Morton Grove (“Applicant”) filed an application for approval of a Text Amendment to Sections 12-2-5, 12-2-6, 12-9-3, and 12-17-1 of the Unified Development Code (Title 12, Morton Grove Municipal Code) relating to the regulation of accessory structures, including, but not limited to, driveways and fences.

The proposed Text Amendment was considered by the Plan Commission at a regularly scheduled meeting on November 15, 2021. For the reasons set forth in this report, on November 15, 2021, the Plan Commission unanimously recommended by a vote of 6-0 (Commissioner Stein absent) that the Village Board approve the Text Amendment with minor revisions.

Background

The Department of Community and Economic Development continuously reviews and updates the Unified Development Code as needed to keep regulations current and promote predictable and desirable development. The Unified Development Code currently controls the bulk and siting of driveways through Sections 12-2-6 (Yards) and 12-9-3 (Alleys, Sidewalks, Pedestrianways and Driveways). Fencing is controlled by Section 12-3-5 (Fences). The Village is requesting a Text Amendment to these sections, and Sections 12-2-5 (Accessory Uses and Structures) and 12-17-1 (Terms Defined), to provide property owners with greater flexibility in installing and replacing driveways and fences.

Code sections relating to accessory structures were last updated in 2020 by Ordinance 20-01. The approved Text Amendment clarified rear yard impermeable coverage requirements, added an overall impermeable lot coverage restriction for the residential districts, added restrictions specific to temporary accessory structures, improved siting and dimensional control over accessory structures, including driveways and fences, converted the permitted obstructions list to a table format for improved readability, added common permitted obstructions not yet addressed in Title 12, added greater flexibility to existing street side yard fence regulations, added new illustrations to improve user-friendliness, and amended various definitions to support the regulatory changes. The Text Amendment proposed under PC 21-03 is intended to build on these improvements while addressing nuances in on-the-ground development patterns.

Application

On October 11, 2021, the Applicant submitted a complete application to the Department of Community and Economic Development for approval of a Text Amendment to Title 12 of the Morton Grove Municipal Code, otherwise known as the Unified Development Code. The Plan Commission discussed the Text Amendment and heard comment offered by members of the public. Following their review, the Commissioners recommended the following minor revisions to the amendment presented by staff:

1. 12-2-6:G: Combine heating, ventilation, and air conditioning (HVAC) requirements with mechanical equipment requirements. Specify whether requirements apply to above-ground or below-ground equipment.
2. 12-2-6:G: Increase the minimum setback for recreational courts from 5 feet to 10 feet.
3. 12-3-5:C: Eliminate any amendment of the street side yard fencing regulations.

The above comments were incorporated into the final Text Amendment, which reads as follows and was recommended for approval by the Plan Commission:

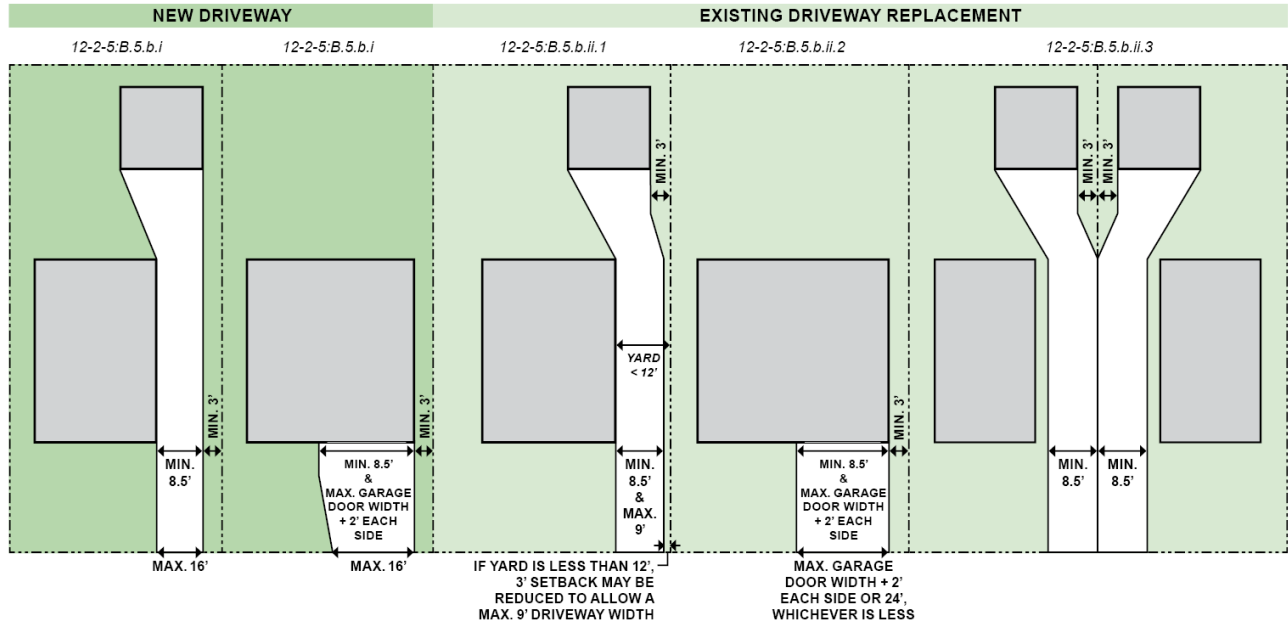
NOTE: Underlined text indicates text is proposed to be added. ~~Strike-out~~ text indicates text is proposed to be deleted.

12-2-5: ACCESSORY USES AND STRUCTURES:

B. Accessory Structures:

1. In no event may an accessory structure become attached to a principal structure where such a combined structure would not comply with the applicable bulk regulations of the zoning district within which it is located.
2. Residential Districts: In residential districts, detached accessory buildings:
 - a. Shall not be located in the front yard or required side yards;
 - b. Shall not be located closer than three feet (3') to the rear or side lot line, or to another detached accessory building structure;
 - c. Shall not occupy more than thirty percent (30%) of the rear yard in building area;
 - d. Shall be at least ten feet (10') from the principal structure;
 - e. Shall not have more than one story nor exceed seventeen feet (17') in height, unless otherwise permitted as accessory to business and manufacturing uses.
3. Rear Yard Coverage: In no event may the total coverage of accessory structures and impermeable surfaces combined exceed fifty percent (50%) of a rear yard.
4. Temporary Accessory Structures: Temporary accessory structures must comply with the setback requirements of the district in which it is located, or as otherwise deemed appropriate by the Village Administrator, and with all applicable building and life safety code requirements. Any temporary accessory structure exceeding two-hundred (200) square feet in area or seventy-two (72) hours in duration in a calendar year shall be required to obtain a permit prior to installation of the structure, or as otherwise deemed appropriate by the Building Commissioner. Temporary trailers are subject to the provisions of Section 12-3-8. Temporary signs and displays are controlled by Section 10-10-8. (Ord. 07-07, 3-26-2007; Ord. 20-01, 1-27-20)
5. Driveways:
 - a. Driveways serving non-residential uses, attached dwellings, and multi-family dwellings:
 - i. All driveways shall conform to a minimum width of twenty-four feet (24'), consisting of two (2) twelve-foot (12') driving lanes, one lane in each direction. One-way driveways, a minimum of eighteen feet (18') wide may be allowed, provided all the requirements of subsection 12-9-1:B, "Lot Access", are met. Should alternate driveway configurations and dimensions be proposed, they will be subject to the review and approval of the Village Administrator or his/her designee.
 - ii. Shared driveways may be allowed, and in some cases encouraged, between adjacent property owners, provided that an easement document, meeting Village standards, which addresses access, maintenance, and liabilities of both parties is recorded with Cook County and is maintained on file with the Village.
 - b. Driveways serving single-family detached dwellings and two-family dwellings:
 - i. Driveways shall be a minimum width of eight and one-half feet (8.5'), shall be set back a minimum of three feet (3') from any non-driveway approach lot line, and shall be limited to a maximum width of sixteen feet (16') at any front or street side lot line. Maximum interior driveway width shall be determined by the exterior width of the garage, as measured from no more than two feet (2') outside the garage door edges, or alternative conforming parking area. Each lot line shall be limited to (1) driveway approach.
 - ii. Exceptions for replacement of existing nonconforming driveways:
 1. For a driveway within a yard less than twelve feet (12') in width, the minimum setback of three feet (3') from any non-driveway approach lot line may be reduced to allow a driveway width no greater than nine feet (9').

2. For a driveway that leads to an attached garage and is greater than sixteen feet (16') in width at the front or street side lot line, the maximum driveway width at the front or street side lot line shall be determined by the exterior width of the garage, as measured from no more than two feet (2') outside the garage door edges, or twenty-four feet (24'), whichever is less.
3. For a driveway that abuts an existing driveway on adjacent private property, no setback shall be required from the non-driveway approach lot line. However, the driveway width shall not be increased within the interior side yard.



12-2-6: YARDS:

G. Permitted Obstructions: The following shall not be considered as obstructions when located in the yard indicated:

Permitted Obstruction *				
Y = Permitted // N = Prohibited				
Permitted Obstruction	Required Yard			
	Front	Street Side	Interior Side	Rear
Driveway ** Controlled by Section 12-2-5:B.5 Min. 9' width; Min. 3' from all lot lines; For replacement of existing driveways, 3' setback may be reduced to allow a driveway width of 9' if yard is less than 12'; Max. 1 driveway within any yard; Max. width of 16' at front or street side lot lines	Y	Y	Y	Y
Mechanical Equipment, Aboveground Heating, Ventilation, and Air Conditioning (HVAC) Equipment Permitted within 10 feet of principal structure; Heating, ventilation, and air conditioning (HVAC)	N	N	N	Y

equipment subject to the provisions of Section 10-1-1:F.1; permitted within 10 feet of principal structure				
<u>Mechanical Equipment, Belowground</u> <u>Min. 3' from all lot lines</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
<u>Open Accessory Parking Spaces **</u> Min. 3' from all lot lines; For replacement of existing parking spaces, 3' setback may be reduced to allow a parking space width of 9 feet if yard is less than 12'; No portion may project into a front or street side yard	N	N	Y	Y
<u>Tennis, Volleyball, Basketball, Shuffleboard, and Other Recreational Courts</u> Min. 10' from all lot lines	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>

* In order to maintain visibility on corner lots, the height of a permitted obstruction located within twenty feet (20') of the lot corner formed by the intersection by any two (2) lot lines bounding a public street may not exceed twenty-four inches (24") above curb level.

** Within five feet (5') of any lot line, height shall not exceed grade of nearest lot line, or as otherwise approved by the Building Commissioner.

12-9-3: ALLEYS, SIDEWALKS, PEDESTRIANWAYS AND DRIVEWAYS:

D. Driveways: ~~All driveways shall conform to the requirements of Section 12-2-5:B.5. All driveways shall be a minimum of twenty four feet (24') wide, consisting of two (2) 12-foot driving lanes, one lane in each direction, except for driveways for single-family homes where the width of the driveway shall be based on the size of the garage. One-way driveways, a minimum of eighteen feet (18') wide may be allowed, provided all the requirements of subsection 12-9-1B, "Lot Access", of this chapter, are met.~~

~~Shared driveways may be allowed, and in some cases encouraged, between adjacent property owners, provided that an easement document, meeting Village standards, which addresses access, maintenance, and liabilities of both parties is recorded with the Cook County recorder of deeds and on file with the Village. (Ord. 07-07, 3-26-2007)~~

Public Hearings

Plan Commission: The Village of Morton Grove provided public notice for the September 15, 2021, Plan Commission public hearing for PC 21-03 in accordance with the Unified Development Code. The Morton Grove Champion published a public notice on October 28, 2021. Because this request is for a Text Amendment to the Morton Grove Municipal Code, not a request for a specific site, no public notice signs or notification letters were required.

Plan Commission – November 15, 2021, Proceedings: Six members of the Plan Commission were in attendance at the public hearing for Case PC 21-03 held on November 15, 2021. Commissioner Stein was absent with notice.

Zoe Heidorn, Land Use Planner, provided a brief introduction to the application. The staff report, dated November 9, 2021, and attached hereto as "Attachment A," was entered into the public record.

Community Development Administrator Zoe Heidorn presented the case for the Village. Ms. Heidorn explained that under Case PC 21-03, the Village of Morton Grove is proposing a Text Amendment to modify regulations relating to accessory structures, including driveways, fences, recreational courts, and mechanical equipment.

Commissioner Gabriel asked why now the Village feels that a width should be set for driveways as this has not been regulated in the past.

Ms. Heidorn explained that driveway width regulation has less to do with the desire to control private development and more to do with the public right-of-way. Unrestricted driveway width results in lower rates of parkway permeability, which has a negative impact on stormwater management, fewer on-street parking spaces, and more vehicular-pedestrian conflict area.

Ms. Heidorn then reviewed the first amendment, stating all driveways shall conform to the requirements of Section 12-2-5:B.5. The added setback provision for open accessory parking spaces is in keeping with the current allowances for driveways and sidewalks, which allow a reduced setback within constrained yards. Often, open accessory parking spaces are located within an interior side yard. Staff also recommends adding that open accessory parking spaces must be fully located behind front and street side building lines. The current Code could be interpreted to allow an open accessory parking space within a front yard, but behind the required front setback line. The list of permitted obstructions applies to required yards, but open accessory spaces are not desirable in any part of the front or street side yards.

Ms. Heidorn added that staff recommends adding specific requirements for mechanical equipment and recreational courts, such as tennis, volleyball, basketball, and shuffleboard courts. Section 12-2-6:G addresses HVAC equipment specifically, but fails to address structures such as generators, solar equipment, and miscellaneous mechanical equipment. Staff recommends allowing mechanical equipment as a permitted obstruction and permitting placement within 10 feet of the principal structure. Recreational courts are typically treated as detached patios, which must be located only 3 feet from the interior side and rear lot lines. Due to complaints that have been received from abutting property owners, staff is recommending a 5-foot minimum setback due to noise generated on such courts.

Chairperson Blonz asked what power, if any, the Zoning Board of Appeals would have over cases requesting exceptions to these requirements.

Ms. Heidorn responded that the Zoning Board of Appeals would have complete authority to modify the dimensional requirements of Title 12.

Commissioner Dorgan asked if flood control equipment would be considered mechanical equipment.

Ms. Heidorn stated that was not the intent and mechanical equipment could be further defined as aboveground versus belowground.

Chairperson Blonz stated that mechanic equipment could also include HVAC equipment.

Commissioner Dorgan asked how this regulation would relate to ice skating rinks.

Building Department Director English stated that the Village has never seen an issue with an ice rink as these are very rare and there is a gradual melt with minimal run-off.

The commission reached a consensus to treat ice rinks as seasonal decorations.

Ms. Heidorn then explained that the word "structure" will be replaced with the word "building" in select areas to clarify the Code's intent. She explained that all driveway requirements are being moved to Section 12-2-5:B. The Village Administrator would be provided authority to modify select driveway requirements.

Chairperson Blonz asked why the Village Administrator is being allowed this authority, questioning if someone from the Plan Commission should also be consulted.

Ms. Heidorn responded that the Village Engineer and Administration were in agreement that the Village Administrator should be given authority on these types of decisions, but that the Administrator would base their

decision on the recommendations of planning and engineering staff. She added that including a broader group of reviewers adds to the time and complication of administrative approvals. Ms. Heidorn noted that in the case of new commercial, industrial, multi-family, and townhome developments, the Plan Commission usually reviews the site plans as part of procedural control.

Commissioner Gabriel stated there needs to be a very good reason for taking control away from homeowners and he appreciated the explanations that Ms. Heidorn provided and the simplicity of the diagrams.

Ms. Heidorn then reviewed the proposed requirements for fences, which were intended to provide greater flexibility in fence height and transparency for properties with street side yards. Ordinance 20-01 amended street side yard fencing requirements to increase the maximum height from 3.5 feet to 4 feet. However, Variation Applications continue to be submitted for waivers to street side yard fencing requirements and staff continues to receive complaints from community members. Residents are generally in favor of allowing less transparency and taller fence heights to provide greater privacy and keep pets and children safely enclosed. Ms. Heidorn explained that staff is proposing a maximum height of 4 feet and up to board-on-board opacity. However, the maximum height could be increased to 5 feet if a minimum of 50% transparency was provided.

Chairperson Blonz asked why the Village would not allow a 5-foot board-on-board fence to allow for additional privacy.

Ms. Heidorn responded that staff would be supportive an amendment to allow this type of fencing in street side yards.

Commissioner Dorgan stated he would like to see a small licensing fee for fence permits to allow for more regulation and ensure adherence to code, as well as fines involved for not pulling permits and meeting code.

Ms. Heidorn explained that there is a process in place to address this.

Mr. English stated that all of the fence companies are licensed with the Village and bonded. Issues mostly arise with fences that are installed by the owner. Every new fence is inspected with citations being issued for non-compliance.

The Commission reached a consensus to keep the current regulations as they stand at a maximum of 4 feet in height and a minimum transparency of 50%.

Chairperson Blonz then called for public comment.

Marta Robles of 9018 Meade stated concerns about how the new code would affect her home renovation project as she would need to apply for an exception for her driveway.

Ms. Heidorn explained that an in-kind replacement of her non-conforming driveway would be permitted under the proposed amendment. She would only need to provide a saw cut, control joint, or change in material to delineate between the sidewalk and driveway.

Ms. Robles responded that she has no interest in adding a line of delineation that that the Village should allow here to replace the driveway to match her neighbor's driveway exactly.

There were no further comments.

Commissioner Kintner then made a motion to recommend approval of Case PC 21-03, a request for a Text Amendment to Sections 12-2-6 and 12-9-3 of the Morton Grove Municipal Code, Title 12 (Unified Development Code), regarding the regulation of accessory structures, in accordance with the recommendations made within the Staff Report for PC 21-03 dated 11/9/2021, and as specifically modified by the Plan Commission at the public hearing for Case PC 21-03 on 11/15/2021.

Commissioner Gabriel seconded the motion.

Chairperson Blonz called for the vote.

The motion was unanimously approved (6-0).

Attachments

- **Attachment A** – Staff Report to the Plan Commission for PC 21-03, dated November 9, 2021

Attachment A

Staff Report to the Plan Commission for PC 21-03

Dated November 9, 2021

To: Chairperson Blonz and Members of the Plan Commission

From: Zoe Heidorn, Community Development Administrator; Anne Ryder Kirchner, Assistant Land Use Planner

Date: November 9, 2021

Re: **PC 21-03: Request for a Text Amendment to Sections 12-2-5, 12-2-6 and 12-9-3 of the Morton Grove Municipal Code, Title 12 (Unified Development Code), regarding the regulation of accessory structures, and to Section 12-3-5 regarding the regulation of fences**

STAFF REPORT

Public Notice

The Village of Morton Grove provided public notice for the September 15, 2021, Plan Commission public hearing for PC 21-03 in accordance with the Unified Development Code. The *Morton Grove Champion* published a public notice on October 28, 2021. Because this request is for a Text Amendment to the Morton Grove Municipal Code, not a request for a specific site, no public notice signs or notification letters were required.

Background

The Department of Community and Economic Development continuously reviews and updates the Unified Development Code (Title 12, Morton Grove Municipal Code) as needed to keep regulations current and promote predictable and desirable development. The Unified Development Code currently controls the bulk and siting of driveways through Sections 12-2-6 (Yards) and 12-9-3 (Alleys, Sidewalks, Pedestrianways and Driveways). Fencing is controlled by Section 12-3-5 (Fences). The Village is requesting a Text Amendment to these sections, and Sections 12-2-5 (Accessory Uses and Structures) and 12-17-1 (Terms Defined), to provide property owners with greater flexibility in installing and replacing driveways and fences.

Code sections relating to accessory structures were last updated in 2020 by Ordinance 20-01. The approved Text Amendment clarified rear yard impermeable coverage requirements, added an overall impermeable lot coverage restriction for the residential districts, added restrictions specific to temporary accessory structures, improved siting and dimensional control over accessory structures, including driveways and fences, converted the permitted obstructions list to a table format for improved readability, added common permitted obstructions not yet addressed in Title 12, added greater flexibility to existing street side yard fence regulations, added new illustrations to improve user-friendliness, and amended various definitions to support the regulatory changes. The Text Amendment proposed under PC 21-03 is intended to build on these improvements while addressing nuances in on-the-ground development patterns.

Driveways

Prior to Ordinance 20-01, the only limitation to driveway siting and size was provided in Section 12-9-3:D, which states that "the width of the driveway shall be based on the size of the garage." Ordinance 20-01 added to Section 12-2-6:G (Permitted Obstructions) a minimum driveway width of 9 feet, a maximum width of 16 feet at the front or street side lot line, and a minimum setback of 3 feet from any non-approach lot line, which could be reduced to 0 feet in constrained yards.

Since the adoption of Ordinance 20-01, staff has identified the need for greater flexibility and nuance in driveway regulations to allow for broader replacement of existing driveways. The following driveway variations have been reviewed and approved by the Zoning Board of Appeals since Ordinance 20-01:

- ZBA 20-07 (6627 Golf Road) – Authorized a horseshoe driveway with driveway widths of 16.5 feet at the front lot line
- ZBA 20-09 (5901 Keeney Road) – Authorized a driveway width of 17.5 feet at the street side lot line

- ZBA 20-10 (9232 Mango Avenue) – Authorized an interior driveway width of 7.92 feet
- ZBA 20-12 (7319 Church Street) – Authorized a driveway width of 33 feet at the front lot line
- ZBA 21-09 (8828 Birch Street) – Authorized a driveway width of 20 feet at the front lot line and a setback of 1 foot

Staff is seeking to centralize all driveway regulations in Section 12-2-5:B (Accessory Structures). The proposed Text Amendment removes all dimensional control from Section 12-9-3:D and relocates it in Section 12-2-5:B, which controls accessory structures. The length of the proposed driveway regulations is not conducive to placement in the permitted obstructions table found in Section 12-2-6:G.

Staff is also taking the opportunity to amend various sections of Code to clarify the Code’s intent and provide more flexibility where appropriate. The proposed amendments to driveway and accessory structure regulations are as follows:

Amendment 1 (12-9-3:D) - Moves All Driveway Control to Section 12-2-5:B.5

~~12-9-3:D. Driveways: All driveways shall conform to the requirements of Section 12-2-5:B.5. All driveways shall be a minimum of twenty four feet (24') wide, consisting of two (2) 12 foot driving lanes, one lane in each direction, except for driveways for single family homes where the width of the driveway shall be based on the size of the garage. One-way driveways, a minimum of eighteen feet (18') wide may be allowed, provided all the requirements of subsection 12-9-1B, "Lot Access", of this chapter, are met.~~

~~Shared driveways may be allowed, and in some cases encouraged, between adjacent property owners, provided that an easement document, meeting Village standards, which addresses access, maintenance, and liabilities of both parties is recorded with the Cook County recorder of deeds and on file with the Village. (Ord. 07-07, 3-26-2007)~~

Amendment 2 (12-2-6:G) – Clarifies and Improves Existing Regulations and Moves All Driveway Controls to Section 12-2-5:B.5

Permitted Obstruction *				
Y = Permitted // N = Prohibited				
Permitted Obstruction	Required Yard			
	Front	Street Side	Interior Side	Rear
Driveway ** <u>Controlled by Section 12-2-5:B.5</u> Min. 9' width; Min. 3' from all lot lines; For replacement of existing driveways, 3' setback may be reduced to allow a driveway width of 9' if yard is less than 12'; Max. 1 driveway within any yard; Max. width of 16' at front or street side lot lines	Y	Y	Y	Y
Open Accessory Parking Spaces ** Min. 3' from all lot lines; For replacement of existing parking spaces, 3' setback may be reduced to allow a parking space width of 9 feet if yard is less than 12'; No portion may project into a front or street side yard	N	N	Y	Y
Mechanical Equipment <u>Permitted within 10' from principal structure</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>
Tennis, Volleyball, Basketball, Shuffleboard, and Other Recreational Courts <u>Min. 5' from all lot lines</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>Y</u>

* In order to maintain visibility on corner lots, the height of a permitted obstruction located within twenty feet (20') of the lot corner formed by the intersection by any two (2) lot lines bounding a public street may not exceed twenty-four inches (24") above curb level.

** Within five feet (5') of any lot line, height shall not exceed grade of nearest lot line, or as otherwise approved by the Building Commissioner.

The added setback provision for open accessory parking spaces is in keeping with the current allowances for driveways and sidewalks, which allow a reduced setback within constrained yards. Often, open accessory parking spaces are located within an interior side yard. Staff also recommends adding that open accessory parking spaces must be fully located behind front and street side building lines. The list of permitted obstructions applies to the required yards, but open accessory spaces are not desirable in any part of the front yard.

Staff recommends adding specific requirements for mechanical equipment and recreational courts, such as tennis, volleyball, basketball, and shuffleboard courts. Section 12-2-6:G addresses HVAC equipment specifically, but fails to address structures such as generators, solar equipment, and miscellaneous mechanical equipment. Staff recommends allowing mechanical equipment as a permitted obstruction and permitting placement within 10 feet of the principal structure. Recreational courts are typically treated as detached patios, which must be located only 3 feet from the interior side and rear lot lines. Due to complaints that have been received from abutting property owners, staff is recommending a 5-foot minimum setback due to noise generated on such courts.

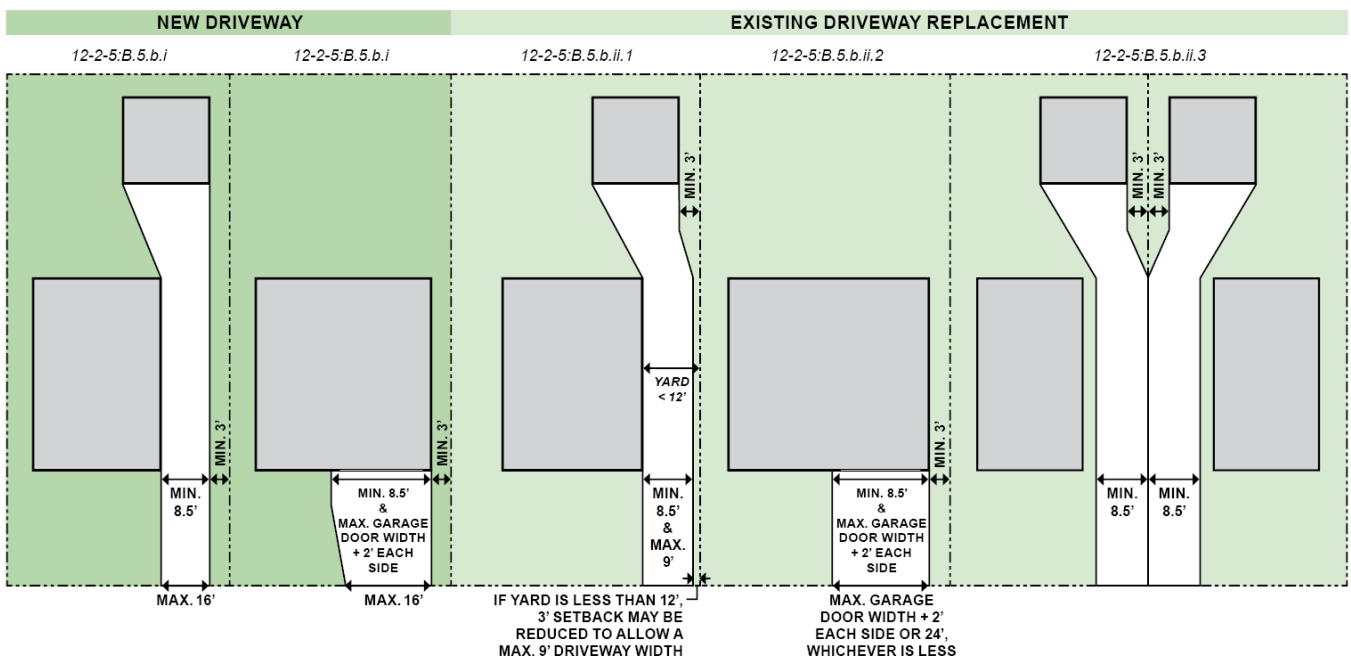
Amendment 3 (12-2-5:B) – Clarifies and Improves Existing Regulations and Establishes Modified Driveway Regulations in Section 12-2-5:B.5

12-2-5.B: Accessory Structures:

1. In no event may an accessory structure become attached to a principal structure where such a combined structure would not comply with the applicable bulk regulations of the zoning district within which it is located.
2. Residential Districts: In residential districts, detached accessory buildings:
 - a. Shall not be located in the front yard or required side yards;
 - b. Shall not be located closer than three feet (3') to the rear or side lot line, or to another detached accessory building structure;
 - c. Shall not occupy more than thirty percent (30%) of the rear yard in building area;
 - d. Shall be at least ten feet (10') from the principal structure;
 - e. Shall not have more than one story nor exceed seventeen feet (17') in height, unless otherwise permitted as accessory to business and manufacturing uses.
3. Rear Yard Coverage: In no event may the total coverage of accessory structures and impermeable surfaces combined exceed fifty percent (50%) of a rear yard.
4. Temporary Accessory Structures: Temporary accessory structures must comply with the setback requirements of the district in which it is located, or as otherwise deemed appropriate by the Village Administrator, and with all applicable building and life safety code requirements. Any temporary accessory structure exceeding two-hundred (200) square feet in area or seventy-two (72) hours in duration in a calendar year shall be required to obtain a permit prior to installation of the structure, or as otherwise deemed appropriate by the Building Commissioner. Temporary trailers are subject to the provisions of Section 12-3-8. Temporary signs and displays are controlled by Section 10-10-8. (Ord. 07-07, 3-26-2007; Ord. 20-01, 1-27-20)
5. Driveways:
 - a. Driveways serving non-residential uses, attached dwellings, and multi-family dwellings:
 - i. All driveways shall conform to a minimum width of twenty-four feet (24'), consisting of two (2) twelve-foot (12') driving lanes, one lane in each direction. One-way driveways, a minimum of eighteen feet (18') wide may be allowed, provided all the requirements of subsection 12-9-1:B, "Lot Access", are met. Should alternate driveway configurations and dimensions be proposed, they will be subject to the review and approval of the Village Administrator or his/her designee.
 - ii. Shared driveways may be allowed, and in some cases encouraged, between adjacent property owners, provided that an easement document, meeting Village standards, which addresses access, maintenance, and liabilities of both parties is recorded with Cook County and is maintained on file with the Village.
 - b. Driveways serving single-family detached dwellings and two-family dwellings:
 - i. Driveways shall be a minimum width of eight and one-half feet (8.5'), shall be set back a minimum of three feet (3') from any non-driveway approach lot line, and shall be limited to a maximum width

of sixteen feet (16') at any front or street side lot line. Maximum interior driveway width shall be determined by the exterior width of the garage, as measured from no more than two feet (2') outside the garage door edges, or alternative conforming parking area. Each lot line shall be limited to (1) driveway approach.

- ii. Exceptions for replacement of existing nonconforming driveways:
 1. For a driveway within a yard less than twelve feet (12') in width, the minimum setback of three feet (3') from any non-driveway approach lot line may be reduced to allow a driveway width no greater than nine feet (9').
 2. For a driveway that leads to an attached garage and is greater than sixteen feet (16') in width at the front or street side lot line, the maximum driveway width at the front or street side lot line shall be determined by the exterior width of the garage, as measured from no more than two feet (2') outside the garage door edges, or twenty-four feet (24'), whichever is less.
 3. For a driveway that abuts an existing driveway on adjacent private property, no setback shall be required from the non-driveway approach lot line. However, the driveway width shall not be increased within the interior side yard.



The proposed amendment to Section 12-2-5:B (Accessory Structures) includes the following changes:

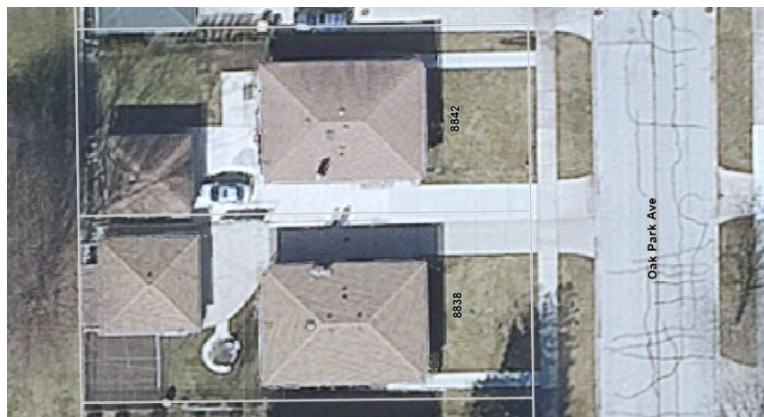
- **12-2-5:B.2** – The addition of “In residential districts, detached accessory buildings:” clarifies that the list of requirements that follows is intended to apply to detached accessory buildings, and not all structures, such as driveways and patios. A structure is any above-grade, at-grade, or below-grade improvement, whereas a building is typically an above-grade shelter or enclosure. “Structure” and “building” are defined by Sections 12-14-3 and 12-17-1, respectively:

STRUCTURE: The results of a manmade change to the land constructed on or below the ground, including the construction, reconstruction, or placement of a building or any addition to a building; anything constructed or erected, the use of which requires permanent or temporary location on or in the ground; installing a manufactured home on a site; preparing a site for a manufactured home or installing a travel trailer on a site for more than one hundred eighty (180) days.

BUILDING: Any structure designed or intended for shelter or enclosure of persons, animals, chattels, or movable property of any kind and which is permanently affixed to the land.

- **12-2-5:B.2.c** – The addition of “in building area” clarifies that the 30% coverage restriction applies to building area, as opposed to the 50% maximum coverage requirement for impermeable surfaces established in Section 12-2-5:B.3.

- **12-2-5:B.5.a** – Regulations for driveways serving non-residential uses, attached dwellings, and multi-family dwellings were relocated from Section 12-9-3:D. Due to the variety of use considerations and site conditions that might be present in the design of driveways serving industrial, commercial, multi-family, and townhome developments, authority to modify the dimensional requirements is granted to the Village Administrator, who would seek recommendations from the Village Engineer.
- **12-2-5:B.5.b** – Regulations for driveways serving single-family detached dwellings and two-family dwellings, which tend to be similar in site design to single-family dwellings, include existing provisions from Section 12-2-6:G (Permitted Obstructions), with the following modifications:
 - The minimum driveway width was reduced to 8.5 feet, which is consistent with the minimum parking stall width of 8.5 feet established in Section 12-7-3:J. Many existing driveways are within side yards that are less than 9 feet. A reduced minimum will reduce the number of nonconforming driveways Village-wide and the need for future variations. The Village Engineer indicated support of even further reduction to the minimum.
 - The maximum driveway width within a zoning lot’s interior is currently “based on the size of the garage,” per Section 12-9-3:D. Due to the Code’s ambiguity, the maximum width has been interpreted to mean both the width of the garage door and the width of the garage as measured from exterior wall to exterior wall. Often, an attached garage’s exterior wall edge is flush with the rest of the building or the garage is much wider than the garage door. Allowing a driveway width up to 2 feet wider than the garage door will provide more consistency in interior driveway width across properties. If the parking area is a carport or open parking pad, the maximum driveway width will be equal to the width of those conforming parking areas.
 - For existing driveways leading to an attached garage, the maximum width at the front or street side lot line may be based on the width of the garage or 24 feet, whichever is less. This is a significant increase above the 16-foot maximum width for new driveways but will allow a significant number of existing driveways to be replaced in-kind. The 24-foot maximum provides some control of driveways leading to very wide garages.
 - Back-to-back driveways will be permitted to be replaced by-right. However, the width of the driveway will not be permitted to increase. An example at 8838-42 Oak Park Avenue is provided below.



8838-8842 Oak Park Avenue

Fences

Proposed amendments to Section 12-3-5 (Fences) are intended to provide greater flexibility in fence height and transparency for properties with street side yards. Ordinance 20-01 amended street side yard fencing requirements to increase the maximum height from 3.5 feet to 4 feet. However, Variation Applications continue to be submitted for waivers to street side yard fencing requirements and staff continues to receive complaints from community members. Residents are generally in favor of allowing less transparency and taller fence heights to provide greater privacy and keep pets and children safely enclosed.

Staff conducted a survey of street side yard fence regulations across neighboring communities. Generally, Morton Grove’s regulations for street side yard fences were found to be the same or more stringent than in other communities, with the exception of Skokie and Schaumburg. The survey results are provided in the table below.

Green indicates a less stringent requirement, red indicates a more stringent requirement, and gray indicates the requirement is the same as Morton Grove's.

Street Side Yard Fence Regulations Survey			
Community	Height Requirements	Transparency Requirements	Other Requirements
Morton Grove	Max. 4 ft.	Min. 50% transparency	
Des Plaines	Max. 4 ft.	None	
Evanston	Max. 4 ft. for first 3 ft. of fencing behind front building line, then max. 6 ft.	None	Min. 2' landscaped setback from side lot line
Glenview	Max. 4 ft.	Min. 50% transparency	
Lincolnwood	Max. 4 ft.	Min. 50% transparency	
Mount Prospect	Max. 6 ft.	None	Min. 1 ft. setback from street side lot line; Min 1 ft. setback for open fence, min 10 ft. setback for privacy fence from abutting front yards
Niles	Max. 4 ft.	Min. 50% transparency	
Northfield	Max. 5 ft. if ≥20% transparency, otherwise max 4 ft.	None	
Palatine	6 ft.	None	Min. 5 ft. setback
Park Ridge	Max. 5 ft.-2 in.	None	
Schaumburg	Fencing not permitted	Fencing not permitted	
Skokie	Fencing not permitted	Fencing not permitted	
Wilmette	Max. 4 ft.	Min. 50% transparency	
Winnetka	6 ft.	None	Min. 18 in. from sidewalk

Staff is recommending the following amendments to Section 12-3-5:

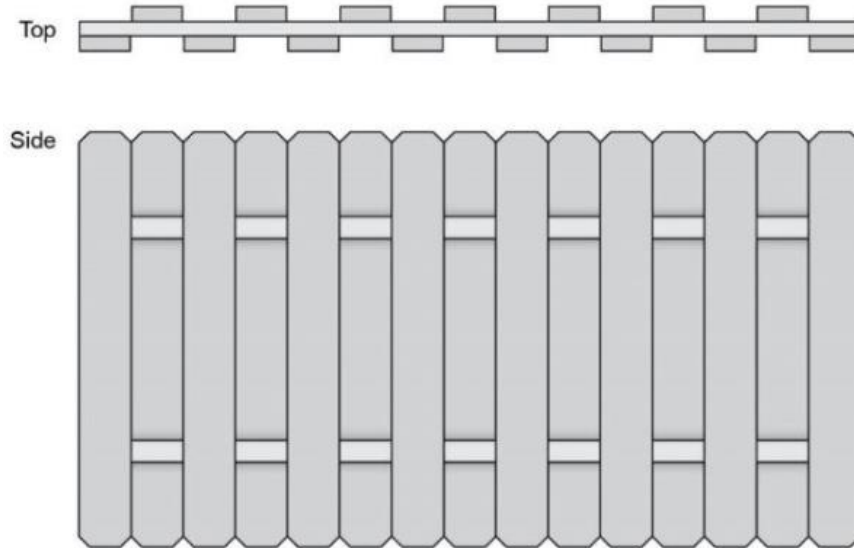
12-3-5.C. Fences shall be permitted within portions of the street side yard of corner lots, which is defined as the yard abutting a street that does not meet the definition of “Lot Frontage” and “Lot Line, Rear,” in accordance with Section 12-17-1 of the Unified Development Code, with the following requirements:

1. The street side yard of a subject property which is part of a block where the entire block face, between two public streets, includes only street side yards, but not on lots where the block face, between two public streets, includes one or more front yard, or on lots with street frontage on three (3) sides where the street side yard is within the required front yard setbacks, or on through lots.
2. The fence shall only be permitted to enclose that portion of the street side yard that is in line with and behind the rear portion of the principal structure closest to the street side yard property line;
3. The fence shall provide transparency equal to or greater than that of a board-on-board fence, as defined in Section 12-17-1;
4. The fence height shall not be greater than 48 inches (4 ft.). However, the maximum fence height shall be 60 inches (5 ft.) if the fence transparency is equal to or greater than 50%; and
- ~~3. The fence shall not be higher than 48 inches (4 ft.);~~
- ~~4. The fence shall have a minimum transparency of 50%; and~~
5. The fence shall not be made of chain-link material.

12-17-1: Terms Defined:

BOARD-ON-BOARD FENCE: A fence with boards installed on alternating sides of horizontal members so that when viewed perpendicular there is a one-quarter inch or greater separation between the alternating vertical boards.

BOARD-ON-BOARD FENCE



The proposed amendment to Section 12-3-5 (Fences) includes the following changes:

- **12-3-5:C.3 & 12-3-5:C.4** – The Village maintains an ideal of open yards along the streetscape, which must be balanced with property owners’ desire for privacy and security. Currently, the maximum height for street side yard fences is 4 feet and the minimum transparency is 50%. Staff is recommending allowing reduced transparency, to as little as provided by a board-on-board fence, for fences 4 feet in height and shorter. This will provide property owners with the option for greater privacy if desired but maintain visibility over the fence. The average adult eye level is 5 feet. For property owners who are concerned with pets jumping over a 4-foot fence, staff recommends allowing a maximum height of 5 feet if the fence is at least 50% transparent. The flexibility in height and transparency will allow residents to modify their fence design to achieve greater privacy or greater height than currently permitted, but not both. The flexibility maintains open yards along the streetscape, but addresses resident concerns with privacy and security. The following fences would both be allowed in qualifying streets side yards under the proposed Text Amendment:



4-Foot Board-on-Board Fence



5-Foot Fence, Transparency ≥ 50%

Recommendation

If the Plan Commission seeks to forward a recommendation of approval of this Text Amendment to the Village Board of Trustees, staff suggests the following motion:

Motion to recommend approval of Case PC 21-03, a request for a Text Amendment to Sections 12-2-6 and 12-9-3 of the Morton Grove Municipal Code, Title 12 (Unified Development Code), regarding the regulation of accessory structures, and to Section 12-3-5 regarding the regulation of fences, in accordance with the recommendations made within the Staff Report for PC 21-03 dated 11/9/2021, and as specifically modified by the Plan Commission at the public hearing for Case PC 21-03 on 11/15/2021.

